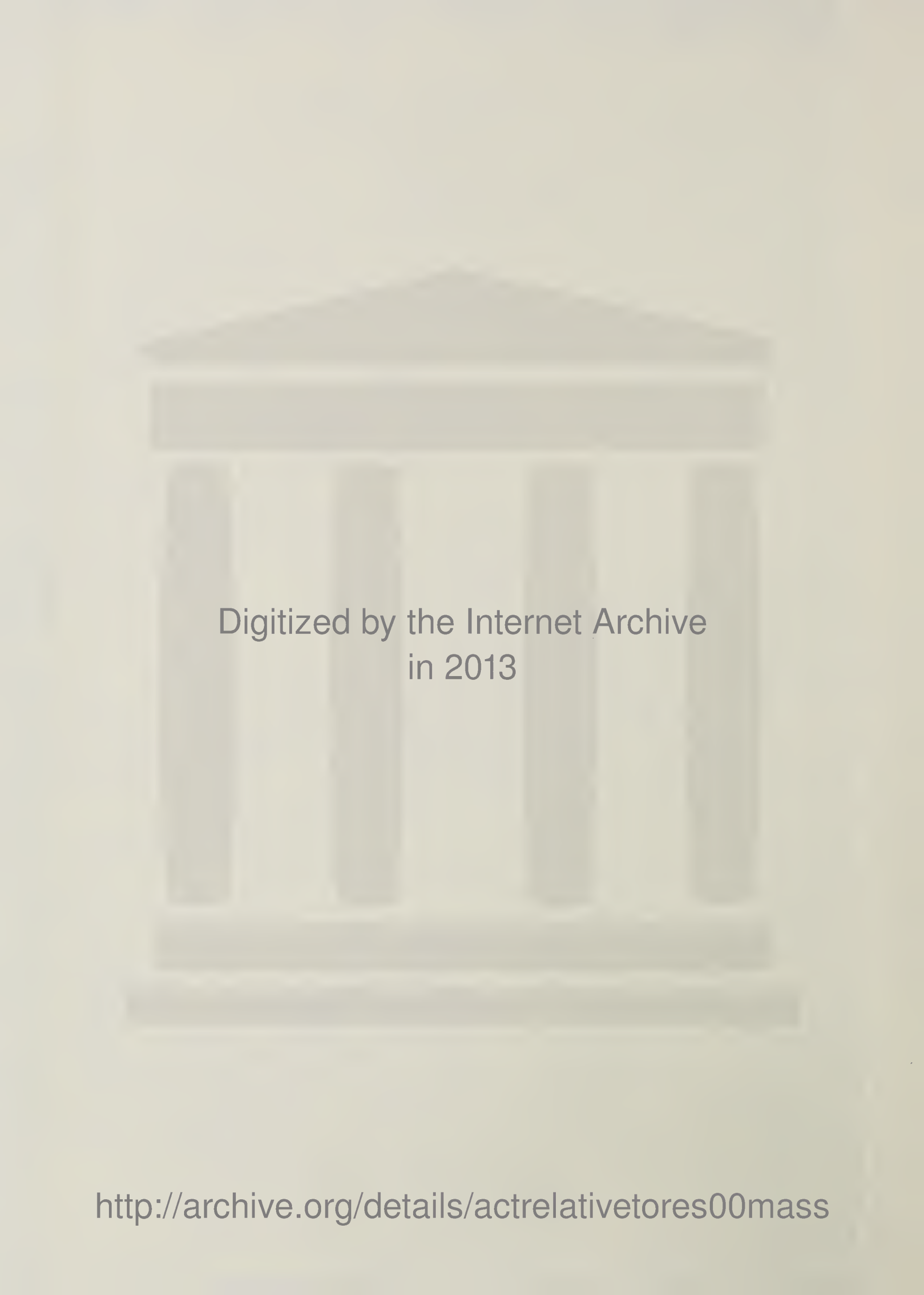

Rep. Bosley Draft 10/3/97

AN ACT RELATIVE TO RESTRUCTURING THE ELECTRIC UTILITY INDUSTRY IN THE COMMONWEALTH, REGULATING THE PROVISION OF ELECTRICITY AND OTHER SERVICES, AND PROMOTING ENHANCED CONSUMER PROTECTIONS THEREIN.

SECTION 1. It is hereby found and declared that:

(a) Electricity service is essential to the health and well-being of all residents of the commonwealth, to public safety, and to orderly and sustainable economic development, and affordable electric service should be available to all customers on reasonable terms and conditions; and that

(b) The interest of ratepayers and the commonwealth of Massachusetts as a whole will be best served by moving from the regulatory framework existing on January 1, 1997, in which retail electricity service is provided principally by public utility electric corporations subject to an obligation to provide ultimate consumers in exclusive service territories with reliable electric service at regulated rates, to a framework under which competition would be allowed in the supply of electric power and customers would be allowed to have the right to choose their supplier of electric power; and that

(c) As a result of the existing regulatory system, residential and commercial customers in Massachusetts presently pay some of the highest electricity rates in the United States; and that

(d) These extraordinarily high electricity rates have created significant adverse effects on residents' pocketbooks and wallets and businesses' ability to compete in regional, national, and international markets; and that

(e) Within the commonwealth itself, the disparity in residential electricity prices from region to region and the different service areas can vary by some forty percent; and that

(f) Competition in the electric generation market will encourage innovation, efficiency, and improved service from all market participants, and will permit the reduction of costly regulatory oversight; and that

(g) Competitive markets in generation should (i) provide electricity suppliers with the incentive to operate efficiently, (ii) open markets for new and improved technologies, (iii) provide electricity buyers and sellers with appropriate price signals, and (iv) improve public confidence in the electric utility industry; and that

(h) Since reliable electric service is of utmost importance to the safety, health, and welfare of the commonwealth's citizens and economy, electric industry restructuring should enhance the reliability of the interconnected regional transmission systems, and provide strong coordination and enforceable protocols for all users of the power grid; and that

(i) It is vital that sufficient supplies of electric generation will be available to maintain the reliable service to the citizens and businesses of the commonwealth; and that

(j) The department of regulated industries should ensure that universal service and energy conservation policies, activities, and services are appropriately funded and available throughout the commonwealth and that funding is sufficient to meet the need therefor; and that

(k) Long-term reductions can be achieved most effectively by increasing competition and enabling broad consumer choice in generation service, thereby allowing market forces to play the principal role in determining the suppliers of generation for all customers; and that

(l) The primary elements of a more competitive electricity market will be customer choice, preservation of consumer protections, and full and fair competition in generation; and that

(m) The interests of consumers can best be served by an expedient and orderly transition from regulation to competition in the generation sector, in order to bring to consumers the benefits of competition as quickly as possible, with the unbundling of prices and services and the functional separation of generation services from transmission and distribution services; and that

(n) With the restructuring of the existing electricity system, it should be the policy of the commonwealth of Massachusetts to ensure that electricity bills are affordable; and that

(o) The commonwealth of Massachusetts should enter into a compact with the other New England states and New York State, which should require the publicly- and investor-owned electricity utilities located in those states that sell energy to retail customers in Massachusetts to adhere to enforceable standards and protocols to protect the reliability of the interconnected regional transmission and distribution systems; and that

(p) Since reliable electricity service depends on conscientious inspection and maintenance of transmission and distribution systems, to continue and enhance the reliability of the delivery of electricity, the independent system operator and the department of regulated industries should set stringent and comprehensive inspection, maintenance, repair, and replacement standards; and that

(q) The primary elements of a more competitive electricity market will be customer choice, preservation and augmentation of consumer protections, and enhanced environmental protection goals; and that

(r) Since the transition to expanded customer choice and competitive markets can produce hardships for employees who have dedicated their working lives to utility employment, it is preferable that any impending reductions in the utility work force directly caused by electricity restructuring be accomplished through offers of voluntary severance, retraining, early retirement, outplacement, and related benefits; and that

(s) The transition to a competitive generation market should be orderly, protect electric system reliability, provide the investors in electricity corporations with a reasonable opportunity to recover costs associated with generation-related assets and obligations, based on prudent decisions, only to the extent approved by the department of regulated industries as allowed pursuant to the provisions of this act, and be completed as expeditiously as possible; and that

(t) Electricity corporations should be afforded, to the extent allowed pursuant to the provisions of this act, an opportunity to recover, over a reasonable transition period, net non-mitigable, stranded investments associated with commitments previously incurred pursuant to their legal obligations to provide electricity service, only after such electric companies take all practicable measures to mitigate stranded investments during the transition to a competitive market; and that

(u) Such charges associated with the transition should be collected over a specific period of time on a non-bypassable basis and in a manner that does not result in an increase in rates to customers of electricity corporations; and that

(v) Financial mechanisms to allow an electricity corporation, whether or not it divests itself of its generation assets, to monetize either a portion of its transition charge or its existing debt obligations so that customers will receive rate reductions through the distribution companies of no less than 15 percent beginning on March 1, 1998; and that

(w) It is the intent of the Great and General Court that every customer in the commonwealth shall enjoy a rate for electricity services by and on March 1, 2001, which shall be no higher than 115 percent of the statewide base rate in effect on March 2, 1998.

Therefore, it is found that it is in the public interest of the commonwealth of Massachusetts to promote the prosperity and general welfare of its citizens, a public purpose for which public money may be expended, by restructuring the electricity industry in the commonwealth to foster competition and promote reduced electricity rates through the enactment of the following statutory changes.

SECTION 2. Section 91 of chapter 6 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 20, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 3. Section 18D of chapter 6A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 49, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 4. Section 18E of said chapter 6A, as so appearing, is hereby amended by striking, in line 3, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 5. Section 18F of said chapter 6A, as so appearing, is hereby amended by striking, in lines 1 and 2, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 6. Said section 18F of said chapter 6A, as so appearing, is hereby further amended by striking, in line 6, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 7. Chapter 7 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 43F the following new section:-

Section 43F1/4. (a) All state agencies and facilities shall not enter into contracts for the purchase of electricity unless such contracts include a minimum percentage of kilowatt-hour sales from renewable energy generating sources, according to the following schedule: (i) one percent of sales by December 31, 2001; (ii) an additional one-half of one percent of sales every year thereafter, to four percent of sales by December 31, 2007; and (iii) an additional one percent of sales every year thereafter until a date determined by the division of energy resources.

For the purpose of this section, a renewable energy generating source is one which generates electricity as of or after December 31,1997, or represents an increase in the generating capacity, after December 31, 1997, at an existing facility, and which produces electricity using any of the following: (i) solar photovoltaic or solar thermal electric energy; (ii) wind energy; (iii) ocean thermal, wave, or tidal energy; (iv) fuel cells utilizing renewable fuels; (v) landfill gas; (vi) waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; (vii) flowing water and hydroelectric; (viii) low-emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, or organic refuse-derived fuel; and (ix) any other energy technology accepted for inclusion in the renewables portfolio standard by the division of energy resources pursuant to section 11G of chapter 25A.

In considering contracts with electricity suppliers, state agencies shall give a preference to those contracts which include a larger percentage of renewable energy resources in their portfolio, so long as there is no substantial difference in cost. If the costs of procuring electricity under this section exceed by 10 percent the costs of failing to comply with such minimum standards, state agencies shall only procure a level of renewable energy resources commensurate with a maximum increase of 10 percent above the cost of non-compliance.

(b) Any state agency initiating the construction of a new facility, or substantial renovation of an existing facility that includes the replacement of systems, components, and other building elements which affect energy or water consumption, and which is either owned or operated by the commonwealth, shall design and construct such facility to minimize the life-cycle cost of the facility by utilizing energy efficiency, water conservation, or solar or wind-powered energy technologies pursuant to the following criteria:

(i) State agencies shall conduct a life-cycle cost analysis to evaluate the economic and technical feasibility of using a passive or active solar energy system or wind-powered energy system to provide lighting, heat, water heating, or electricity. State agencies shall utilize solar or wind-powered systems when the life-cycle cost analysis has determined that such systems are economically feasible;

(ii) Each new educational facility for which the projected demand for hot water exceeds 1,000 gallons per day, or which operates a swimming pool that is heated, shall be constructed, whenever economically and physically feasible, with a solar energy system as the primary energy source for the domestic hot water system or swimming pool of the facility; and

(iii) State agencies shall file a report with the division of energy resources for each renovation or construction project demonstrating compliance with the requirements of this section.

The term "economically-feasible" shall mean providing a payback period of not more than 10 years, as determined by a life-cycle cost analysis. The division of capital planning and operations shall establish, by no later than January 1, 1999, a methodology for use by agencies in assessing life-cycle costs.

The division of energy resources shall issue an annual report to the general court detailing the compliance record of all state agencies with the construction and renovation provisions in this section.

SECTION 8. Section 11E of chapter 12 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 6, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 9. Section 18A of chapter 21A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 50, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 10. Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking, in line 70, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 11. Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking, in line 73, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 12. Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking, in line 77, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 13. Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking, in line 79, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 14. Section 7 of chapter 21C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 57, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 15. Said section 7 of said chapter 21C, as so appearing, is hereby further amended by striking, in line 67, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 16. Section 8 of said chapter 21C, as so appearing, is hereby amended by striking, in line 13, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 17. Section 5 of chapter 21E of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 243, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 18. Section 19 of chapter 21G of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 2, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 19. Said section 19 of said chapter 21G, as so appearing, is hereby further amended by striking, in line 4, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 20. Said section 19 of said chapter 21G, as so appearing, is hereby further amended by striking, in line 10, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 21. Section 3D of chapter 23A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 37, the words "authority; or" and inserting in place thereof the following:- authority;.

SECTION 22. Said section 3D of said chapter 23A, as so appearing, is hereby further amended by striking paragraph (G) and inserting in place thereof the following:-

(G) the designated area has a commercial vacancy rate of 20 percent or more; or

(H) the municipality has sited a generation facility, as defined pursuant to section 1 of chapter 164, which has a market value at the time of sale that is at least 50 percent less than its current net book value.

SECTION 23. Section 3E of said chapter 23A, as so appearing, is hereby amended by inserting, in line 15, after the letters "EOA" the following:- or the municipality has a generation facility, as defined pursuant to section 1 of chapter 164, with a market value which is at least 50 percent less than its current net book value.

SECTION 24. Section 32 of said chapter 23A, as so appearing, is hereby amended by striking, in line 97, the word "enterprise." and inserting in place thereof the following:-

enterprise; and

(v) to issue electric rate reduction bonds, as defined in section 1J of chapter 164, for the benefit of any electric company, as defined in section 1 of chapter 164, determined to be eligible for said bond financing by the department of regulated industries pursuant to chapter 164. Such electric rate reduction bonds shall constitute "bonds" for purposes of sections 35D through 35K, inclusive, and section 36 of this chapter.

SECTION 25. Section 1 of chapter 24A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 16, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 26. Section 3 of said chapter 24A, as so appearing, is hereby amended by striking, in line 4, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 27. Said section 3 of said chapter 24A, as so appearing, is hereby further amended by striking, in line 39, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 28. Section 1 of chapter 25 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 1, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 29. Said chapter 25, as so appearing, is hereby further amended by striking section 2 and inserting in place thereof the following new section:-

Section 2. The department shall be under the supervision and control of a commission consisting of five members, one of whom shall have a background and expertise in electricity and energy issues, one of whom shall have a background and expertise in telecommunications issues, and two of whom shall have a background and expertise in consumer protection and advocacy issues. The commissioners shall be appointed by the governor for a term coterminous with that of the governor. Each member shall hold office until the appointment and qualifications of his successor. The governor may remove any member for cause, including, but not limited to, any violation of the provisions of section 3, and shall fill any vacancy for the unexpired term. The commissioners shall devote their full time to the duties of their office. The governor shall designate one of said commissioners as chairman. Not more than three members of said commission shall be members of the same political party. In this chapter, said commission shall be called "the commission".

The positions of chairman and each other commissioner shall be classified in accordance with section 45 of chapter 30 and the salaries shall be determined in accordance with section 46C of said chapter 30. The members shall also receive their necessary expenses incurred in the discharge of their official duties.

The commission shall make an annual report in January of each year to the general court.

SECTION 30. Said chapter 25, as so appearing, is hereby further amended by inserting after section 2A the following new sections:-

Section 2B. (a) There is hereby created within the department a division of electricity consumer assistance, which shall possess the authority to implement rules and regulations authorized by and subject to the consumer-related provisions of chapter 164, including, but not limited to, rules and regulations (i) governing the oversight of licensure

and registration requirements for generation companies and suppliers as defined in section 1 of chapter 164; (ii) mediating disputes between customers and generation companies or customers and distribution companies; (iii) enhancing consumer protection activities pursuant to sections 1B, 1C, 1D, 1E, 1F, 1G, 1I, and 137 of chapter 164; and (iv) levying fines for violations of regulations promulgated by the department pursuant to chapter 164.

(b) There is hereby created within said division an office of small business advocate, which shall possess the authority to intervene and represent small commercial and industrial users before the department in any dispute between such businesses and generation or distribution companies, as defined pursuant to section 1 of chapter 164.

Section 2C. There is hereby established a transmission oversight board to monitor the operations of any independent systems operator formed or approved through federal statute, regulation, or order. The board shall consist of seven members, who shall include the chairman of the department of regulated industries, or his designee, and who shall serve as the chairman of the board; the commissioner of the division of energy resources, or his designee; a member of the energy facilities siting board who is not the aforementioned chairman of the department of regulated industries; the attorney general, or his designee; and three citizens of the commonwealth who are electricity ratepayers, to be selected by the governor. The board shall be established and convened within 30 days of receipt of any such federal approval. Board members shall serve three-year terms with the citizen members having no limit on reappointment. Beginning January 1, 1999, said oversight board shall issue a report by March thirty-first of each year and submit such report to the joint committees on government regulations and energy, respectively, and the house and senate committees on ways and means containing information on all issues of system reliability, including, but not limited to, a register of the names, addresses, and generation plant locations of all suppliers offering electric power at retail in the commonwealth during the preceding year, such data to be submitted to the board by the independent system operator not less than quarterly; load and capacity data for the period of January first through December thirty-first of the previous year; and potential future capacity excesses or deficits.

SECTION 31. Said chapter 25, as so appearing, is hereby further amended by striking section 3 and inserting in place thereof the following new section:-

Section 3. Each commissioner shall be sworn to the faithful performance of his or her official duties. A commissioner shall not own, or be in the employ of, or own any stock in any regulated industry company, nor shall he or she be in any way directly or indirectly pecuniarily interested in or connected with any such regulated industry company or in the employ or connected with any person financing any regulated industry company. A commissioner shall not personally or through any partner or agent render any professional service or make or perform any business contract with or for any regulated industry company, except contracts made with the commissioners as common carriers for furnishing of services, nor shall he or she directly or indirectly receive any commission, bonus, discount, present, or reward from any regulated industry company.

For the purposes of this section and the provisions of chapter 164, a regulated industry company shall be defined as any corporation, city, town or other governmental

subdivision, partnership or other organization, or any individual engaged within the commonwealth in any business which is, or the persons engaged in which are, in any respect made subject to the supervision or regulation of the department by any provision of law except chapter 110A of the General Laws and chapter 651 of the Acts of 1910, as amended.

SECTION 32. Section 12M of said chapter 25, as so appearing, is hereby repealed.

SECTION 33 Section 17 of said chapter 25, as so appearing, is hereby repealed.

SECTION 34. Section 17A of said chapter 25, as so appearing, is hereby repealed.

SECTION 35. Said chapter 25, as so appearing, is hereby further amended by striking out section 18 and inserting in place thereof the following new sections:--

Section 18. The commission is hereby authorized to make an assessment against each electric, gas, telephone, and telegraph company under the jurisdictional control of the department and each generation company and supplier licensed to do business in the commonwealth by the department, based upon the intrastate operating revenues subject to the jurisdiction of the department of each of said companies derived from sales within the commonwealth of electric, gas, telephone, and telegraph service respectively, as shown in the annual report of each of said companies to the department.

Said assessments shall be made at a rate not exceeding two-tenths of one percent of such intrastate operating revenues, as shall be determined and certified annually by the commission as sufficient to reimburse the commonwealth for funds appropriated by the general court for the operation and general administration of the department and for fringe benefits costs, including group life and health insurance, retirement benefits, paid vacations and holidays and sick leave, not to exceed 22 percent of the amount attributable to personnel costs of employees of the department in the fiscal year in which the assessments are made, exclusive of funds appropriated by the general court for the transportation division. The funds may be used to compensate consultants in hearings on petitions filed by companies subject to assessment under this section. Any funds unexpended in any fiscal year for the purposes for which such assessments were made shall be credited against the assessment to be made in the following fiscal year and the assessment in the following fiscal year shall be reduced by any such unexpended amount. Assessments made under this section may be credited to the normal operating cost of each company. Such estimated assessments shall be collected by the department. Each company shall pay the amount assessed against it within 30 days after the date of the notice of estimated assessment from the department. The amount so collected shall be credited to the General Fund. The department subsequently shall make assessment adjustments for any variation between the estimated and actual amounts of such assessments. Such estimated and actual costs shall include an amount equal to the cost of fringe benefits as established by the commissioner of administration pursuant to section 6B of chapter 29.

For the purpose of providing the department with additional operating funds for the regulation of electric companies, the commission is authorized to make a separate

assessment proportionally against each electric company under the jurisdictional control of the department and each generation company and supplier licensed by the department to do business in the commonwealth of each of said companies derived-from wholesale and retail sales of electricity within the commonwealth as shown in the annual report of said companies to the department. Said additional assessment shall be made at a rate as shall be determined and certified annually by the commission as sufficient to produce not more than $1,750,000 in revenue for the fiscal year in which the assessment is made and shall be collected by the department. The commission is also authorized to expend for the operation of the department such amounts which are appropriated for that purpose.

A schedule of filing fees shall be determined annually by the commissioner of administration under the provisions of section 3B of chapter 7 for the following: (a) petitions for certificates of environmental impact and public need; provided, however, that such filing fee for any municipal corporation empowered to operate a municipal lighting plant under the provisions of section 35 or 36 of chapter 164 shall not exceed a maximum amount; and (b) notices of intention to construct an oil facility, with a maximum amount per oil facility to be graduated in accordance with the expected capital investment in the facility.

Notwithstanding the provisions of section 20 of chapter 159 and section 94 of chapter 164, during any fiscal year in which such assessment is made, the department shall have no authority to suspend the effective date of any rate, price, or charge set forth in any schedule filed subsequent to January 1, 1977, by a telephone or telegraph company under the provisions of chapter 159, or by any gas or electric company under the provisions of section 94 of chapter 164 for a period longer than six months; provided, however, that in the event that such six-month period expires on a Sunday or legal holiday, any rate, price, or charge suspended under this section shall remain suspended until the day following the next day which is not a Sunday or legal holiday.

Section 19. Beginning on March 1, 1998, and for a period of three years thereafter, each distribution company shall include a charge to fund energy efficiency activities, including, but not limited to, demand-side management programs; provided, however, that in no instance shall said charge exceed one-quarter of one mill ($0.00025) per kilowatt-hour. At least 15 percent of the amount expended for residential demand-side management programs by each distribution company in any year shall be spent on comprehensive low-income residential demand-side management and education programs. The low-income residential demand-side management and education programs shall be implemented through the existing low-income weatherization and fuel assistance program network and shall be coordinated with all gas and distribution companies in the commonwealth with the objective of standardizing implementation. On March 1, 2001, the department shall, in order to determine if energy investments shall continue beyond that time, review then-current market barriers, experience with competitive markets, and related environmental and economic goals. If the department determines that the continued operation of the programs delivers cost-effective, energy efficiency services, the department shall file, with the clerk of the house of representatives of the general court, legislation to extend for a time certain the authorization contained herein for such a charge to fund energy efficiency activities. The department shall promulgate rules and regulations consistent with this section.

Section 20. (a)(1) Beginning on March 1, 1998, the department is hereby authorized and directed to require a mandatory charge of one-quarter mill ($0.00025) per kilowatt-hour for all electricity consumers of the commonwealth, except those consumers served by a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition at the retail level, to support the development and promotion of renewable energy in the commonwealth. Beginning on July 1, 2000, said mandatory charge shall be one-half mill ($0.0005) per kilowatt-hour.

(2) In the fiscal year ending on June 30, 2002, the advisory committee, established pursuant to subsection (h) of section 4E of chapter 40J, shall, in consultation with the department of regulated industries and the division of energy resources, review the adequacy of the monies generated by said mandatory charge in meeting the requirements of this section. If, after such review, said advisory committee determines that an adjustment in said mandatory charge is necessary, said advisory committee shall file recommendations in the form of legislation with the clerk of the house of representatives.

(b) The revenues generated by said mandatory charge shall be remitted to the commonwealth and deposited into the Massachusetts renewable energy fund, established pursuant to section 2QQ of chapter 29. The public purpose of the renewable energy fund shall be to generate the maximum economic and environmental benefits over time from renewable energy to the ratepayers of the commonwealth through a series of initiatives which exploits the advantages of renewable energy in a more competitive energy marketplace by promoting the increased availability, use, and affordability of renewable energy and by fostering the formation, growth, expansion, and retention within the commonwealth of clusters of renewable energy and related enterprises, institutions, and projects.

SECTION 36. Section 3 of chapter 25A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 67, in the definition of "Reseller" the word ' form." and inserting in place thereof the following:- form, or any wholesaler or retail seller of electricity or natural gas.

SECTION 37. Section 6 of said chapter 25A, as so appearing, is hereby amended by inserting, in line 19, after the word "grants," the following words:- funds, monies,.

SECTION 38. Said section 6 of said chapter 25A, as so appearing, is hereby further amended by striking, in line 24, the word "responsibilities." and inserting in place thereof the following:- responsibilities;.

SECTION 39. Said section 6 of said chapter 25A, as so appearing, is hereby further amended by striking, in line 27, the word "chapter." and inserting in place thereof the following:-

chapter;

(10) plan, develop, oversee, and operate programs to help consumers understand, evaluate, and select retail energy supplies and related services offered as a consequence of electric and gas utility restructuring; and

(11) provide technical assistance to municipalities seeking assistance during the transition to a competitive market, including, but not limited to, the voluntary aggregation of their citizens' demand for electricity pursuant to section 134 of chapter 164 and the negotiation of payments in lieu of taxes pursuant to section 38H of chapter 59.

SECTION 40. Section 7 of said chapter 25A, as so appearing, is hereby amended by striking, in line 4, the word "products" and inserting in place thereof the following:- products, electricity, natural gas,.

SECTION 41. Said section 7 of said chapter 25A, as so appearing, is hereby further amended by inserting, in line 6, after the word "products," the following:- electricity, natural gas,.

SECTION 42. Said section 7 of said chapter 25A, as so appearing, is hereby further amended by inserting after the second paragraph the following new paragraph:-

All electric and gas companies, transmission companies, distribution companies, suppliers, and aggregators, as defined pursuant to section 1 of chapter 164, engaged in distributing or selling electricity or natural gas in the commonwealth shall make accurate reports to the division of energy resources in such form and at such times as the division shall require regarding energy supplies, sales, demand, prices, and services provided to customers by electricity suppliers and aggregators, as defined pursuant to said section 1 of said chapter 164, and suppliers of natural gas, including aggregators, marketers, brokers, and marketing affiliates of gas companies, excluding gas companies as defined pursuant to said section 1 of said chapter 164.

SECTION 43. Said section 7 of said chapter 25A, as so appearing, is hereby further amended by striking, in line 22, the word "products" and inserting in place thereof the following:- products, or any supplier of electricity or natural gas.

SECTION 44. Said chapter 25A, as so appearing, is hereby further amended by inserting after section 11C the following new sections:-

Section 11D. In order to enable retail customers of electricity to realize the benefits of electric utility restructuring through the reduction of energy costs, the commissioner of the division of energy resources is hereby authorized and directed to undertake activities to assist consumers in understanding, evaluating, and selecting retail electricity supplies and related services offered as a consequence of electric utility restructuring. Said activities should provide electricity consumers with reliable information to help them compare and select among products and services provided in the electricity market and to avoid unfair or deceptive marketing practices. Said activities may include, but not be limited to, (i) development of consumer education materials, providing consumers with information in a clear and consistent manner empowering consumers to select their own electricity suppliers and products based on individual preferences, such as price, resource type, and environmental considerations; and (ii) development and dissemination of accurate information to be used in a uniform disclosure labeling system which shall identify, at a minimum, the price of power generation, the length and kind of contract, the

mix of fuel and power generation sources, and the level of air emissions compared to a regional average.

Said activities shall be described in a plan and budget to be developed in cooperation with industry and consumer representatives and submitted to the department of regulated industries for review and approval no later than March 1, 1998. Said plan and budget shall be revised by said division periodically thereafter until such time as said department determines such activities are no longer necessary and in the public interest. Said department shall provide six months prior notice of said determination to said division.

Said plan shall make full use of all existing, appropriate consumer energy education programs and other delivery mechanisms, and such new programs as needed, as determined by said division in cooperation with the office of consumer affairs, industry and consumer representatives from environmental, energy efficiency, renewable energy, utility industry, residential consumer, commercial, and industrial sectors. Said plan shall provide for the delivery of said services only to the extent that the competitive energy markets do not adequately serve the needs of retail customers as determined by said division in collaboration with industry and consumer representatives pursuant to section 11E of this chapter.

Section 11E. The division of energy resources is hereby authorized and directed to monitor any power exchange which forms as a result of legislative authorization of direct retail access for electricity services pursuant to the provisions of chapter 164. The division is hereby also authorized and directed to determine the extent to which competitive energy markets serve the needs of retail customers and contribute to the achievement of energy efficiency and fuel diversity goals as determined by the division and the department of regulated industries. The collection, analysis, and publication of said data shall be conducted to inform consumers, energy suppliers, the department of regulated industries and the general court of the operation of retail markets and any deficiencies in the operation of those markets, and to recommend improvements to such. Said data shall be used by the division for the publication of periodic projections of the supply, demand, and price of energy on statewide and regional basis.

Beginning January 1, 1999, the division shall annually issue a report containing information on all issues of electricity system reliability, including, but not limited to, generation and transmission data detailing load and capacity for the period of January first through December thirty-first of the previous calendar year and forecasting potential future capacity excesses or deficits for the next five calendar years. The division shall utilize any and all information available to forecast potential capacity excesses or deficits, including, but not limited to, analyses by the independent system operator and other such data collected by the division pursuant to section 7 of chapter 25A. The report shall also contain (i) information regarding spot prices of electricity for the previous calendar year, including, but not limited to, the average regional monthly spot price; (ii) a determination of the extent to which the energy markets are maintaining necessary levels of reliability; (iii) a determination of whether or not all customer classes are being appropriately served; (iv) a determination of the competitiveness of energy markets; a determination whether or not the electric industry are providing consumers with the lowest prices possible within a restructured, competitive retail marketplace; and (v) a determination of the extent to

which the energy markets are achieving the energy efficiency and fuel diversity goals of the commonwealth. The division shall also report any substantial fluctuation or pricing differences in the cost of electricity especially when there are apparent pricing differences for various socio-economic classes of customers. Based upon those determinations, the division shall include in such reports recommendations for improving any deficiencies in the energy markets and non-competitive pricing situations which are within the authority of the general court, the department of regulated industries, the federal energy regulatory commission, or any other governmental bodies with jurisdiction over the subject matter of the deficiency. The division shall submit such report to the joint committees on government regulations and energy, respectively, and the house and senate committees on ways and means no later than April thirtieth of each year, including drafts of legislation to implement recommendations within such report.

Section 11F. The division of energy resources is hereby authorized and directed to provide technical assistance to public agencies as defined pursuant to section 11C of this chapter seeking such assistance on matters related to the transition into a competitive electricity market, including, but not limited to, choosing to voluntarily aggregate their citizens' demand for electricity pursuant to section 134 of chapter 164 and negotiating payments in lieu of taxes pursuant to section 38H of chapter 59.

Section 11G. (a) The division of energy resources, hereinafter referred to as the division, shall establish a renewable energy portfolio standard for all retail electricity suppliers selling electricity to end-use customers in the commonwealth. Every retail supplier shall provide a minimum percentage of kilowatt-hours sales to end-use customers in the commonwealth from renewable energy generating sources, according to the following schedule: (i) one percent of sales by December 31, 2001; (ii) an additional one-half of one percent of sales every year thereafter, to four percent of sales by December 31, 2007; and (iii) an additional one percent of sales every year thereafter until a date determined by the division of energy resources.

(b) For the purposes of this section, a renewable energy generating source is one which generates electricity as of or after December 31,1997, or represents an increase in the generating capacity after December 31, 1997, at an existing facility, and which produces electricity using any of the following: (i) solar photovoltaic or solar thermal electric energy; (ii) wind energy; (iii) ocean thermal, wave, or tidal energy; (iv) fuel cells utilizing renewable fuels; (v) landfill gas; (vi) waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; (vii) flowing water and hydroelectric; and (viii) low-emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel. The division may also consider any previously operational biomass facility retrofitted with advanced conversion technologies as a renewable energy generating source. After conducting administrative proceedings, the division may add or delete technologies or technology categories to the above list; provided, however, that the following technologies shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells, and nuclear power.

(c) Any renewable energy generator which provides electricity to an end-use customer in the commonwealth or to a retail supplier providing electricity to customers in

the commonwealth shall be awarded certified renewable energy credits, upon request and verification of eligibility, for renewably generated kilowatt hours provided to customers or suppliers in the commonwealth. For renewable energy generators with a maximum output of 30 kilowatts used to provide electricity directly to a retail consumer without separately metered output, the division may award credits to the generator based on the output of a typical such generator of the same size; provided, that the owner has a service contract which warranties annual generation at the certified level. Renewable energy credits shall be denominated in kilowatt-hours, and they shall indicate the year they were generated and the technology used to generate them. The division may establish and collect a certification fee for the sole purpose of covering reasonable costs of certification. The division or its duly authorized agents shall have full inspection and audit rights for the purposes of verifying certification claims. For the purposes of this section, the term "renewable energy credit" shall mean a tradable certificate of proof that one unit of renewable energy, as determined by the division, was generated by any person.

Each retail electricity supplier shall provide evidence, on an annual basis to the division, of ownership of renewable energy credits sufficient to demonstrate compliance with the renewable energy portfolio standard. Electricity suppliers may purchase renewable energy credits with the purchase of kilowatt-hours from sustainable energy generators or from any other person with such credits for sale. All retail electricity suppliers shall, in their customer bills, disclose the fraction of sales that are accompanied by renewable energy generation credits.

(d) In order to promote diversity among renewable energy generation sources, no retail electricity supplier of more than one million megawatt-hours in a year shall meet the renewable energy portfolio standard with any more than 60 percent of credits from any one of the eight categories of renewable energy generating sources listed in subsection (b), as modified by the division.

(e) The division shall ensure that every retail supplier may meet the renewable energy portfolio standard in any year at a cost which shall not exceed one-twentieth of one cent per kilowatt-hour times the standard in that year, as a percentage of retail electricity sales. To enable suppliers to meet the renewable energy portfolio standard at such costs, the division may sell any supplier credits at a cost of five cents per kilowatt-hour credit. The division shall auction the proceeds of the sales of such credits to renewable energy generators, with the proceeds awarded to the generators who guarantee delivery of the most sustainable energy kilowatt-hours per dollar.

(f) The false certification of renewable energy credits shall constitute fraud and shall be punishable by penalties estimated by the division to be four times the cost of compliance. Failure to comply with the requirements of the renewable energy portfolio standard of this section shall be punishable by penalties estimated by the division to be four times the cost of compliance. The division shall be authorized, in cooperation with the attorney general, to impose on retail electricity suppliers, utility distribution companies, and self-generators these penalties to ensure full compliance with this section.

(g) Upon passage of a renewables standard in another New England state that includes a substantially similar definition of renewable energy generating sources as above, the division shall be authorized to facilitate the trading of renewable energy credits

between retail electric suppliers located in the commonwealth and that state, and to verify that facilities are receiving renewable energy credits from all states which do not exceed their total generation.

(h) The division shall, by January 1, 1999, promulgate such rules and regulations as may be necessary to implement the provisions of this section. This section shall not preclude the department's oversight of the performance of regulated electricity generators and suppliers in meeting the requirements of this section.

(i) The division shall gather available data and devise measures to gauge the success of the provisions of this section. On an annual basis, by no later than May thirty-first, the division shall publish a report for the previous year that includes data, program results, and steps taken to improve the program results.

(j) Any person may submit a petition to the division alleging that a entity subject to the requirements of this section has violated any order issued by the division to carry out these provisions or that any person or business has falsely certified or attempted to falsely certify renewable energy generation credits. The division shall hold a hearing to determine whether the alleged violations have basis in fact and shall levy penalties as defined under this section to any entity found to have committed such violations. For the purposes of this section, if a person or business complied in good faith with a rule under this section, then it shall not be deemed to have violated any provision of this statute. Any order or decision issued by the division in response to such a complaint shall be subject to judicial review.

Section 11H. The commissioner of the division of energy resources shall establish a voluntary home energy rating system program, enabling the owner of residential property to obtain a rating of the property based on its energy consumption characteristics. The potential buyer of residential property may obtain an energy rating of the property and an estimate of the cost of home improvements necessary to make favorable the property energy-efficient. Said commissioner shall establish a program with guidelines for lending institutions to offer more favorable mortgage provisions for prospective buyers of homes who have high energy efficiency ratings under said program. Said commissioner shall also establish criteria for use by lending institutions to include in their mortgages the costs of home improvements needed to achieve high program ratings. Said commissioner shall facilitate the participation of energy service companies, environmental groups, lending institutions, real estate interests, developers, and electric generation companies to establish said program. Said commissioner shall promulgate rules and regulations to implement the provisions of this section.

Section 11I. (a) The division of energy resources shall annually make recommendations to the department regarding levels of funding for energy efficiency programs for the upcoming subsequent year. Such recommendations shall be based upon the goal of achieving a one percent annual reduction in annual electric consumption throughout the commonwealth. Based upon such recommendations of the division and the provisions of this section, the department shall establish a system benefits charge to be levied upon all retail electric consumers commensurate with the goal of reducing consumption by one percent; provided, that said charge shall not exceed one-quarter of one mill ($0.00025) per kilowatt-hour, pursuant to section 19 of chapter 25. Said charge shall be collected by regulated distribution companies, municipal power systems, or other

billing agents through a non-discriminatory, non-bypassable tariff on all retail consumers. Once collected, all monies shall be administered by the division, subject to appropriation. The division shall, through a public process, determine priorities for the disbursement of these funds based upon the following criteria: (i) no more than 50 percent of efficiency improvements may come from any one of the following classes of customers: large business, small businesses, or residential customers; (ii) "lost opportunity" efficiency programs in areas such as new construction, remodeling, and replacement of worn-out equipment shall be fully supported; (iii) statewide market transformation programs attempting to systematically eliminate market barriers to energy efficiency goods and services shall be a priority; and (iv) a portion of these funds shall be set aside to provide weatherization and efficiency services to low-income customers.

Once the annual priorities are determined, the division shall allocate available funds and, where appropriate, solicit competitive bids from businesses and other entities seeking to provide energy efficiency services. Regulated transmission and distribution utilities may submit bids to the division for providing these services but shall receive no preference in the awarding of contracts. All contracts shall be monitored for effectiveness, and entities providing services may be denied future contracts based upon a negative evaluation of their performance.

(b) Each distribution company, as defined pursuant to section 1 of chapter 164, shall maintain demand-side management and education programs. At least 15 percent of the amount expended for residential demand-side management programs by each distribution company in any year, and no less than one-tenth of one percent of total electricity industry revenue and five-tenths of one percent of total residential electricity revenue, shall be spent on comprehensive low-income residential demand-side management and education programs. The low-income residential demand-side management and education programs shall be implemented through the existing low-income weatherization and fuel assistance program network and shall be coordinated with all gas and electricity distribution companies in the commonwealth with the objective of standardizing implementation.

(c) The division and the department of regulated industries shall promulgate rules and regulations necessary to implement this section.

SECTION 45. Chapter 25B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 5 the following new section:-

Section 5A. All distribution transformers sold or installed in the state after December 31, 1999, shall meet the minimum efficiency levels contained in tables 4-1 and 4-2 of National Electrical Manufacturers Association standard TP1-1996. Efficiency shall be tested in accordance with TP1-1996. These requirements shall only apply to transformers within the scope of TP1-1996. For the purposes of this section, the term "distribution transformer" shall be defined as transformers designed for operation on electrical distribution systems at primary voltages of 34.5kV and below and secondary voltages of 600 volts or below.

SECTION 46. The Massachusetts General Laws are hereby amended by inserting after Chapter 25B the following new chapter:-

CHAPTER 25C.
THE MASSACHUSETTS CITIZENS' POWER BOARD ACT.

Section 1. It is hereby found that residential electricity customers need more effective representation in forums where the quality and price of electricity are being decided. It is further found that residential electricity customers have the right to form a non-profit corporation which will represent their interests before legislative, administrative, and judicial bodies, and that citizens need a convenient manner of contributing to the funding of such an organization so that it can advocate forcefully and vigorously on their behalf concerning all matters of electricity and energy policy affecting their health, welfare, and economic well-being.

Section 2. As used in this chapter, the following terms shall, unless the context clearly requires otherwise, have the following meanings:

"Board", the board of directors of the citizens' power board, as established herein.

"Campaign resources", any (i) expenditure of money belonging to a candidate or to any person or group authorized by or acting for a candidate; (ii) acceptance or use of goods or equipment by a candidate or by any person authorized by or acting for a candidate, regardless of who owned or owns the goods or equipment; (iii) acceptance of a gift or payment if money by a candidate or by any person authorized by or for a candidate; or (iv) acceptance of a loan or advance of money or goods by a candidate or by any person or group authorized by or acting for a candidate, where such expenditure, use, acceptance, payment, gift, loan, or advance is intended to, or would reasonably appear to be calculated to promote, the election of a candidate to the board of directors of the citizens' power board.

"Congressional district", the political subdivision used in the general United States election for the selection of representatives in the U.S. Congress.

"Corporation", the corporate entity known as the citizens' power board.

"Directors", any member of the corporation duly elected or appointed to the board of directors of the citizens' power board.

"Enclosure", printed material prepared by the corporation to be included in the same envelope as the residential consumer electricity or energy billing or mailing, or the state agency mailing.

"Member" or "member of the corporation", any person who satisfies the requirements for membership in the citizens' power board.

"Regulated industry", "electricity company", or "electricity corporation", any corporation which is engaged in any aspect of furnishing electricity to others, at wholesale or otherwise, whether or not the rates or prices are subject to approval by a regulatory or municipal authority. The term shall include the parent corporation or wholly-owned subsidiary of such corporation. The term shall also include municipal-light departments or municipal electric departments organized pursuant to chapter 164.

"Residential consumer" or "residential electricity consumer", any person in a household billed by an electricity company under a residential rate or any person in a household whose rent for lodging includes payment for such costs.

"Electricity regulatory agency" or "agency", a state, or a political subdivision thereof, an agency or instrumentality of the United States, a public service or public utility

commission or authority or department, or any other body, commission, agency, or board which has jurisdiction (i) to establish or alter rates or charges for the provision or sale of utility services within the commonwealth; (ii) to plan, approve, reject, or modify plans for the construction of facilities for the production or provision of utility services within the commonwealth; (iii) to formulate or review energy policies affecting the commonwealth; or (iv) to otherwise regulate the activities of electricity companies doing business within the commonwealth; provided, that local, state, and federal courts and legislative bodies shall not be deemed to be "regulatory agencies" for the purposes of this chapter.

Section 3. (a) There is hereby established a non-profit corporation to be known as the citizens' power board. The corporation shall have and enjoy all powers conferred from time to time upon a corporation organized under the provisions of chapter 180. Within these general powers, the primary purposes of the corporation shall be:

(i) to represent and protect the interests of the residential electricity customers of the commonwealth, as those interests may be determined by the board members;

(ii) to inform, insofar as possible, all residential customers about the corporation, including the procedure for obtaining membership in the corporation;

(iii) to educate residential electricity customers and others on electricity and energy issues;

(iv) to establish an annual membership fee which shall be set at a level that provides sufficient funding for the corporation to effectively perform its powers and duties, is affordable for as many electricity consumers as is possible, but nevertheless not more than two dollars annually, and shall be a voluntary payment by such consumer; and

(v) to possess all rights and powers accorded generally to, and be subject to all duties imposed generally upon, non-profit membership corporations under the laws of the commonwealth.

(b) Within its general powers pursuant to said chapter 180, the corporation shall have all the powers necessary or convenient for the effective representation and protection of the interests of residential electricity customers and to implement this chapter, including, but not limited to, the following powers in addition to all other powers granted by this chapter:

(i) to intervene as of right as a party or otherwise participate on behalf of residential electricity customers in any proceeding, in the commonwealth or elsewhere, which affects the interests of residential electricity customers;

(ii) to represent other corporations, individual consumers, or unincorporated associations in regulatory proceedings where such representation is in the interest of residential consumers;

(iii) to represent the interests of residential electricity customers before legislative bodies and other public bodies;

(iv) to solicit and accept gifts, loans, grants, or other aid, including intervenor's compensation, in order to support activities concerning the interests of residential electricity customers, except that the corporation may not accept gifts, loans, or other aid from any electricity company or from any director, employee or agent or member of the immediate family of a director, employee or agent of any public utility excluding intervenor compensation or other funds established by the state which may be funded by assessments upon electricity companies;

(v) to seek tax-exempt status under state and federal law;

(vi) to conduct, support, and assist research, surveys, investigations, planning activities, conferences, demonstration products, and public information activities concerning the interests of residential electricity customers. The corporation may accept grants, contributions, and legislative appropriations for such activities;

(vii) to contract for services which cannot reasonably be performed by its employees; and

(viii) to support or oppose initiatives or referenda concerning matters which it determines may affect the interests of residential electricity customers.

(c) The corporation shall be deemed to have an interest sufficient to maintain, intervene as of right in, or otherwise participate in any civil action, proceeding, or appeal for the review of enforcement of any regulatory agency decision or action, or refusal to act, which the corporation participated at the regulatory agency decision level. If the corporation did not participate in the regulatory agency decision or action at the agency level, the court may grant the corporation the right to participate in any civil action, proceeding, or appeal if the interest of the residential electricity customers is significantly affected.

(d) The powers of the citizens' utility board shall be limited in the following manner: no more than 10 per cent of the board's total resources, including staff time, in any fiscal year may be used for the resolution of disputes between individual consumers and electricity companies, unless the resolution of such a dispute is likely to have a widespread effect on relations between residential consumers and electricity companies throughout the commonwealth.

(e) The board shall have the following duties to its members:

(i) to conduct board meetings open to the public, including executive sessions;

(ii) to submit to the members on an annual basis a financial report for such period:

(iii) to submit to the members on an annual basis a summary of its activities for the preceding year;

(iv) to keep minutes, books, and records which shall reflect all of the acts and transactions of the board and which shall be subject to examination by any member; provided, however, that minutes, books and records of executive sessions of the board may be kept confidential as the board shall provide;

(v) to prepare annual statements of the financial and substantive operations of the corporation and to make copies of each available to members and the public;

(vi) to cause its books to be audited by a qualified certified public accountant at least once each fiscal year. In addition, complete minutes of executive sessions shall be kept and distributed to a public library in each congressional district in the state on an annual basis; and

(vii) to prepare as soon as practical after the close of the fiscal year, an annual report and mail said annual report to a public library in each congressional district in the state.

(f) Under no circumstances may the board, staff, or any members thereof acting in its, his, or her official capacity work for or against a candidate for elected public office, endorse or support a candidate for elected public office, or participate in any campaign to elect or defeat any candidate for elected public office.

Section 4. During the first three years of the board's corporate existence, board members shall be those residential electricity customers in the commonwealth who have

contributed annual dues to the corporation; provided, however, that the board, in its discretion, may establish a method whereby economically disadvantaged individuals may become members of the board without full payment of the yearly contribution. When the board has been in existence for three years, the board may, by vote of the board, alter the amount of the yearly dues.

Section 5. Each regulatory agency of the commonwealth shall notify or cause notice to be given in the state register, in advance of the time, place, and subject of each formal proceeding of the regulatory agency, in which the corporation may be eligible to participate. Such agency shall so notify or cause notice to be given to the corporation at least thirty days before the scheduled date of such proceeding or within five days to the corporation of any filed statement proposing to modify or increase rates, services, schedule of rates or any other rating rule or to adopt or amend any rate or service rule or regulations.

If the corporation intervenes or participates in any proceedings, it shall be subject to all laws and rules of procedure of general applicability governing the conduct of the proceeding and the rights of intervenors and participants.

Section 6. (a) The board shall be authorized to solicit funding from and communicate with residential electricity consumers using, among others, enclosure and optional contribution methods as defined in this chapter.

(b) To accomplish its duties, the corporation may prepare and furnish to any electricity company a suitable numbers of enclosures, subject to subsections (c), (g), (h), (i), (j), and (k) of this section. Any electricity company furnished with a suitable number of enclosures shall include such enclosures in the periodic customer billing which the company mails or delivers to any residential consumer. In the event that a company does not make at least four periodic customer billings in an envelope in any calendar year, the company shall include any such enclosures in those periodic billings it does make in an envelope, and the company shall include any such enclosures in any other envelop mailing the company mails or delivers to any residential consumer.

(c) No electricity company shall be required to include enclosures from the board in a company billing or mailing more than four times in any calendar year. Enclosures furnished by the corporation under this section shall be limited to soliciting information and money from consumers and explaining: (i) the purpose, history, nature, activities, and achievements of the corporation; (ii) that the corporation is open to membership by residential electricity customers; (iii) that the corporation is not connected to any electricity company, power generator, or governmental agency; (iv) that the corporation is a non-profit corporation directed by its consumer members; (v) the procedure for contributing to or becoming a member of the corporation; and (vi) the annual membership fee, which shall be in each instance a voluntary payment by such consumer.

(d) An enclosure furnished by the corporation pursuant to the provisions of this section shall be submitted to the electricity company no later than 21 calendar days in advance of the date the company mails its regular periodic customer billing or mailing, unless the company requests later delivery of the enclosures. The submitted enclosure shall be included in this customer billing or mailing.

(e) An enclosure shall be of a size compatible with the company's billing or mailing envelope, and shall otherwise conform to the specifications of the company's billing enclosure inserting equipment.

(f) All material submitted by the board for inclusion in a company billing or mailing shall include the return address of the board.

(g) The enclosure shall not have any characteristics that would tend to suggest that the board's solicitation is a statement of an amount owed by the reader or the customer.

(h) The board's enclosure shall be inserted in the company's billing envelope face up and according to the board's specifications.

(i) If an electricity company believes that an enclosure furnished to it contains one or more false statements, the company shall be entitled to institute an adjudicatory proceeding at the department of regulated industries by filing with the secretary of the department a petition for review of the proposed enclosure. If the company proves, by a preponderance of the evidence, that the contested statements are false, the department shall order the board to correct the contested statements. Such a proceeding shall be completed within 30 calendar days for the date of filing of such petition. The company's costs in such a proceeding shall not be billed to the board or to the ratepayers.

(j) When an electricity company includes an enclosure from the board in a periodic bill, it shall have the right to be reimbursed by the board only for insertion costs and such postage costs as provided for in subsection (k). If the board believes that the company's reimbursement costs for insertion exceed the fair market value of those services, the board and the company shall agree upon an amount of reimbursement, by negotiation if possible, or else by a civil proceeding in superior court.

(k) The board shall not be required to pay any postage charges for materials submitted by the board for inclusion in a company billing if such materials weigh three-tenths of one ounce avoirdupois. If the materials exceed such weight limit, the board shall reimburse the company for a portion of the postage costs which is equal to that portion of the board material over three-tenths of one ounce avoirdupois in proportion to the total weight of the billing.

(l) Neither the board nor any electricity company subject to this chapter may fail to comply with the provisions of this chapter by reason of the existence of a dispute arising from the operation of this section.

(m) No sooner than one year after the effective date of this chapter, each electricity company which has incurred costs pursuant to this chapter may submit to board a bill for its reimbursable expenses. Thereafter, each company may submit bills at intervals of six months. The board of directors may request that bills be submitted more frequently. Within two months of receiving a bill, the board shall (i) pay the bill; (ii) enter into negotiations with the company which sent the bill; or (iii) institute a proceeding in the appropriate forum concerning the bill.

(n) No electricity company, officer, employee, or agent of any electricity company subject to this chapter may in any way interfere or hinder with the collection or disbursement of contributions to the board, or the insertion of the board's enclosures in periodic billings or mailings.

Section 7. (a) The corporation is hereby authorized to prepare and furnish to any state agency an enclosure which the state agency shall include within any mailing designated by the corporation. The corporation shall provide the agency with any such enclosure at a time reasonably in advance of the mailing. The corporation may not require any state agency to mail an enclosure more than four times in any calendar year.

(b) Enclosures furnished by the corporation pursuant to the provisions of this section shall be limited to soliciting information and money from consumers and explaining: (i) the purpose, history, nature, activities, and achievements of the corporation; (ii) that the corporation is open to membership by residential consumers; (iii) that the corporation is not connected to any electricity company or governmental agency; (iv) that the corporation is a non-profit corporation directed by its consumer members; (v) the procedure for contributing to or becoming a member of the corporation; and (vi) the annual membership fee.

(c) Prior to furnishing an enclosure to a state agency for mailing, the corporation shall seek and obtain the approval of the department of regulated industries of the content of the enclosure. The department shall approve the enclosure if it determines that the enclosure is not false or misleading, and contains and is limited to the information permitted by this section. The department shall be deemed to have approved the enclosure unless it disapproves the enclosure within 14 days of receipt.

(d) The corporation shall reimburse each state agency for all reasonable incremental costs incurred by the state agency in complying with this section above the agency's normal mailing and handling costs; provided, that (i) the state agency shall first furnish the corporation with an itemized accounting of such additional costs; and (ii) the corporation shall not be required to reimburse the state agency for postage costs if the weight of the corporation's enclosure does not increase the cost of the state agency mailing. If the corporation's enclosure increases the cost of the state agency mailing, then it will be required to reimburse the state agency for postage cost over and above what the agency's postage cost would have been without the corporation's enclosure.

Section 8. (a) The affairs of the citizens' utility board shall be directed by a board of directors, which shall be elected by and from among the members of the citizens' power board. The board shall be comprised of two members elected from each congressional district in the commonwealth by a plurality of votes cast by members residing in that district. The election shall be conducted by secret mail ballot by a procedure to be established by the board of directors.

(b) Members of the board of directors shall serve two-year terms. Elections shall be held biannually.

(c) There shall be 15 initial directors, who shall be appointed in the following manner: The governor shall appoint one person from each congressional district in the commonwealth; the governor shall also appoint two directors from a list containing five names submitted by the speaker of the house of representatives and two directors from a list containing five names submitted by the senate president; and one member shall be appointed by the attorney general. All initial directors shall be appointed by July 1, 1998.

(d) Once residential customers have contributed $100,000, or within nine months of the appointment of the last initial director, whichever comes first, an election by the members of the corporation shall be promptly held to elect the board of directors.

(e) Each member of the board shall have one vote.

(f) Each member of the corporation shall be entitled to cast one vote for each open director position from that district.

(g) Each candidate for the board of directors shall file a statement of financial interest in accordance with the provisions of this chapter no less than 60 days, and no more

than 120 days, prior to the election of directors. A statement of financial interest shall include information on: (i) employment, property, and stock and bond holdings, and other sources of income; and (ii) a detailed list of any business or financial relationships with any electricity company or power generator, including any attorney, legislative agent, officer, or director. Each candidate may spend, accept, or use, or may allow anyone to spend, accept, or use on her or his behalf, campaign resources whose value equals an amount which is not more than the number of members in the candidate's district times one and one-half times the cost of postage for a one-ounce first class mailing. A candidate may not accept any contribution or campaign resources in the aggregate of more than $100 in any one election from any individual, group, or committee.

In order to become and remain eligible to serve on the board of directors, a candidate shall: (i) obtain, maintain, and furnish to the members any records, books, and other information they may request regarding campaign resources; and (ii) cooperate fully with any audit and examination conducted by the members.

(h) Each member who is a candidate for election to the board of directors shall certify, under penalty of perjury, that the total value of campaign resources spent, accepted, or used by the candidate, combined with the total value of campaign resources spent, accepted, or used by any person or group authorized by or acting for the candidate, does not exceed the limit set forth in subsection (g).

(i) Upon receipt of a petition signed by 50 members of the corporation from a district, endorsing the candidacy of a particular member for election to the board of directors, the board shall declare such nomination in effect.

(j) No employee, officer, consultant, contractor, power supplier, attorney, accountant, or real estate agent of any electricity company or any employee of such individual, or any member of the immediate family of any such individual, shall be eligible to serve as director of the citizens' power board.

(k) While on the board, no director elected under this section may hold elective public office, or be a candidate for any elective public office. No person who owns or controls, either singly or in combination with any immediate family member, electricity company stocks or bonds of a total value in excess of $10,000 is eligible to serve as an elected board member of the citizens' power board.

(l) To fill any vacancy occasioned by the failure of any person elected as a director to qualify, or in the event of death, removal, resignation, or disqualification of any director, a successor shall be nominated from the same district. Such nomination may be made as provided in subsection (i), or may be made by a majority of the remaining board members, who shall select one of the nominees to serve until the next annual election, whereupon any expired term will be filled by an election by the members among nominees selected in accordance with subsection (i).

(m) Members of the board of directors may be removed by petition of 40 percent of the total members voting in the last election from the district from which that director was elected. No petition for recall may be filed within six months of the election of the director.

(n) There shall be an independent overseer who shall count the ballots in all board elections.

(o) Directors and staff eligible to disburse funds shall be bonded. The cost of such bonds shall be paid by the citizens' power board.

(p) The board of directors may establish and revise reasonable rates of reimbursement for expenses related to service on the board. Members of the board may not receive compensation for their services.

Section 9. Any person who willfully violates the provisions of this chapter shall be subject to a civil penalty not to exceed $10,000 for each such violation.

Section 10. Nothing in this chapter shall be construed to limit the right of any consumer or group or class of consumers to initiate, intervene in, or otherwise participate in any electric regulatory agency or court proceeding or activity; nor to require any petition or notification to the citizens' power board as a condition precedent to such a right; nor to relieve any electric regulatory agency or court of any obligation, or affect its discretion to permit intervention or participation by a consumer or group or class of consumers in any proceeding or activity.

Section 11. The remedies under this chapter shall be in addition to, and not in lieu of, other remedies as provided by law.

Section 12. An annual meeting of the membership shall be held on a date and at a place within the state to be determined by the board of directors. All members shall be eligible to attend, participate in, and vote at the annual membership meeting. The meeting shall be open to the public.

SECTION 47. Chapter 29 of the General Laws is hereby amended by inserting after section 2OO, as inserted by section 50 of chapter 43 of the Acts of 1997, the following new sections:-

Section 2PP. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Municipal Property Tax Assistance Fund. There shall be credited to said fund all amounts collected pursuant to subsection (d) of section 38H of chapter 59 and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and used, subject to appropriation, solely for the purpose of providing assistance to municipalities which suffer undue fiscal hardship as a result of reduced property tax revenues from either the devaluation of property on which is located electricity generation facilities or the sale by electric or generation companies of such property and the termination of generation activities thereon.

Section 2QQ. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts Renewable Energy Fund. There shall be credited to said fund all amounts collected pursuant to section 20 of chapter 25 and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and used, subject to appropriation, solely for the purpose of implementing the provisions of section 4E of chapter 40J relative to developing and promoting renewable energy sources in the commonwealth.

SECTION 48. Section 39B of chapter 30 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 9, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 49. Said section 39B of said chapter 30, as so appearing, is hereby further amended by striking, in line 13, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 50. Said section 39B of said chapter 30, as so appearing, is hereby further amended by striking, in line 18, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 51. Said section 39B of said chapter 30, as so appearing, is hereby further amended by striking, in line 32, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 52. Section 39C of said chapter 30, as so appearing, is hereby amended by striking, in line 5, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 53. Section 39E of said chapter 30, as so appearing, is hereby amended by striking, in line 8, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 54. Section 1 of chapter 30B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 84, the words "materials; or" and inserting in place thereof the following:- materials;.

SECTION 55. Subsection (b) of said section 1 of said chapter 30B, as so appearing, is hereby amended by striking clause (31) and inserting in place thereof the following new clauses:-

(31) an agreement for the purchase of photography services entered into by a public school; or

(32) contracts entered into by a governmental body for energy or energy related services on behalf of its citizens.

SECTION 56. Section 48 of chapter 31 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 10, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 57. Section 8 of chapter 38 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 9, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 58. Section 9 of said chapter 38, as so appearing, is hereby amended by striking, in line 3, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 59. Section 22D of chapter 40 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in lines 36 and 37, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 60. Section 39C of said chapter 40, as so appearing, is hereby amended by striking, in line 26, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 61. Section 3 of chapter 40A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 37, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 62. Said section 3 of said chapter 40A, as so appearing, is hereby further amended by striking, in line 46, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 63. Chapter 40J of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 4D the following new section:-

Section 4E. (a) The board may, subject to appropriation by the general court, draw upon monies in the Massachusetts renewable energy fund, established pursuant to section 2QQ of chapter 29, to encourage the development and increased use of renewable energy resources in the commonwealth pursuant to the provisions of this section.

(b) The board shall, as the principal public purpose of the renewable energy fund, foster the formation, growth, expansion, and retention within the commonwealth of renewable energy and related enterprises, institutions, and projects. Public interests to be advanced through the board's actions shall include, but not be limited to, the following: (i) the development and increased use and affordability of renewable energy resources in the commonwealth; (ii) the protection of the environment and the health of the citizens of the commonwealth through the prevention, mitigation, and alleviation of the adverse pollution effects associated with certain electricity generation facilities; (iii) the delivery to all consumers of the commonwealth of as many benefits as possible created as a result of increased fuel and supply diversity; (iv) the creation of additional employment opportunities in the commonwealth; (v) the stimulation of increased public and private sector investment in, and competitive advantage for, renewable energy and related enterprises, institutions, and projects in the commonwealth and the New England region; and (vi) the stimulation of entrepreneurial activities in these and related enterprises, institutions, and projects.

(c) In furtherance of these and other public purposes and interests, the board may expend such appropriated monies to make grants, contracts, loans, equity investments, energy production credits, bill credits, or rebates to customers, or to take any other actions, in such forms, under such terms and conditions and pursuant to such selection procedures as the board deems appropriate and otherwise in a manner consistent with good business practices; provided, that the board shall generally employ a preference for competitive procurements; provided, further, that the board shall endeavor to leverage the full range of the resources, expertise, and participation of other state and federal agencies

and instrumentalities in the design and implementation of programs under this section; and provided, further, that the board has determined and incorporated into the minutes of its proceedings a finding that such actions are calculated to advance the public purpose and public interests set forth in this section, including, but not limited to, the following: (i) the growth of the renewable energy-provider industry; (ii) the use of renewable energy by electricity customers in the commonwealth; (iii) public education and training regarding renewable energy; (iv) product and market development; (v) pilot and demonstration projects and other activities designed to increase the use and affordability of renewable energy resources by and for consumers in the commonwealth; (vi) the provision of financing in support of the development and application of related technologies at all levels, including, but not limited to, basic and applied research and commercialization activities; and (vii) matters related to the conservation of scarce energy resources.

The board annually shall, in consultation with the division of energy resources and the advisory committee established pursuant to subsection (h), adopt a detailed plan for the application of the renewable energy fund in support of the design, implementation, evaluation, and assessment of a renewable energy program for the commonwealth, subject to periodic revision by the board, that ensures that the fund will be employed to provide financial and non-financial resources to overcome barriers facing renewable energy enterprises, institutions, and projects in a prudent manner consistent with the public purposes and interests set forth in this section. Said plan, to the extent practicable, shall consist of at least four components: (i) "product and market development" to establish a foundation for growth and expansion of the commonwealth's renewable energy enterprises, institutions, and projects, including pilot and demonstration projects, production incentives, and other activities designed to increase the use and affordability of renewable energy in the commonwealth; (ii) "training and public information" to allow for the development and dissemination of complete, objective, and timely information, analysis, and policy recommendations related to the advancement of the public purposes and interests of the renewable energy fund; (iii) "investment" to support the growth and expansion of renewable energy enterprises, institutions, and projects in the commonwealth; and (iv) "research and development" within the commonwealth related to renewable energy matters. Said plan shall specify the expenditure of such appropriated monies from the fund to each of these component activities; provided, however, that monies so appropriated shall not be used to develop such renewable energy projects outside the commonwealth. In developing said plan, the board is hereby authorized and directed to consult with and utilize the services of the department of regulated industries and the division of energy resources for such technical assistance as the board deems necessary or appropriate to the effective discharge of the board's responsibilities and duties relative to the fund.

(d) Subject to the approval of the board, investment activity of monies from the fund may consist of the following: (i) an equity fund, to provide risk capital to renewable energy enterprises, institutions, and projects in the commonwealth; (ii) a debt fund, to provide loans to energy enterprises, institutions, projects, intermediaries, and end-users; and (iii) a market growth assistance fund, to be used to attract private capital to the equity and debt funds. To implement these investment activities, the corporation is hereby

authorized to retain, through a bid process, a private sector investment fund manager or managers, who shall have prior knowledge and experience in fund management and possess related skills in renewable energy and related technologies development, to direct the investment activity described herein and to seek other fund co-sponsors to contribute public and private capital from the commonwealth and other states; provided, that such capital is appropriately segregated. Said manager or managers, subject to the approval of the board, shall be authorized to retain necessary services and consultants to carry out the purposes of the fund. Said manager or managers shall develop a business plan to guide investment decisions, which shall be approved by the board prior to any expenditures from the fund and which shall be consistent with the provisions of the plan for the fund as adopted by the board.

(e) For the purposes of expenditures from the fund, renewable energy technologies eligible for assistance shall include the following: solar photovoltaic and solar thermal electric energy; wind energy; ocean thermal, wave, or tidal energy; fuel cells utilizing renewable fuels; landfill gas; waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; flowing water and hydroelectric; low emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel; and storage and conversion technologies connected to qualifying generation projects. Such funds may also be used for appropriate joint energy efficiency and renewable projects, as well as for investment by distribution companies in renewables and distributed generation opportunities, if consistent with the provisions of this section. The following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells, and nuclear power.

(f) Appropriations by the general court to the corporation from the fund and the use by said corporation of said monies to implement the provisions of this section shall be deemed to be an essential governmental function.

(g) The provisions of clause (k) of section 4 of this chapter shall not apply to disbursements from the renewable energy fund.

(h) The governor shall, in consultation with the chairman of the board pursuant to clause (i) of said section 4 of this chapter, appoint an advisory committee, to assist the corporation in matters related to the renewable energy fund. Said advisory committee shall include not more than 15 individuals with knowledge and experience in matters related to the purpose and activities of such fund; provided, further, that the representation of said advisory committee shall consist of a balance of individuals representing the following professions or organizations: electricity distribution companies; electricity generation companies; electricity suppliers; power marketers; commercial and industrial ratepayers; residential ratepayers, including low-income ratepayers; financial or investment consulting experts; regional environmental groups; consumer advocates; institutions of higher education; and renewable and clean energy professionals. The board shall consult with said advisory committee in discharging its obligations under this section.

(i) The books and records of the corporation relative to expenditures and investments of monies from the fund shall be subject to a biennial audit by the auditor of the commonwealth.

(j) Beginning with the fiscal year ending on June 30, 1999, on or by August 15th of each year, the board, in conjunction with the advisory committee, shall annually submit to the governor, the joint committees on government regulations and energy, respectively, and the house and senate committees on ways and means a report detailing the expenditure and investment of monies from the fund over the previous fiscal year and the ability of the fund to meet the requirements and provisions of this section, and any recommendations for improving the ability of the board, the corporation, and the fund to meet said requirements and provisions.

SECTION 64. Section 2A of chapter 59 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 55, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 65. Paragraph (3) of the sixteenth clause of section 5 of said chapter 59, as so appearing, is hereby amended by striking, in 257, the word "pipe." and inserting in place thereof the following:- pipes; provided, however, that no property, except property entitled to a pollution control abatement pursuant to the provisions of the forty-fourth clause or a cogeneration facility as defined herein, shall be exempt from taxation if it is used in the manufacture or generation of electricity and it has not received, as of January 1, 1997, a manufacturing status exemption. For the purposes of this section, a cogeneration facility shall be defined as any electrical generating unit having power production capacity which, together with any other power generation facilities located at the same site, is not greater than 30 megawatts and which produces electric energy and steam or other form of useful energy utilized for industrial, commercial, heating, or cooling purposes.

SECTION 66. Said chapter 59, as so appearing, is hereby further amended by inserting after section 38G the following new section:-

Section 38H. (a) Any electric company defined pursuant to section 1 of chapter 164 which generates electricity or any distribution company defined pursuant to said section 1 of said chapter 164 which is authorized by the commonwealth or the department of regulated industries to recover stranded investment amounts associated with past investments in generation facilities, or any generation company defined pursuant to said section 1 of said chapter 164 or such company's affiliate, subsidiary, or parent company which currently has no express or implied agreement for payments in lieu of taxes to municipalities in which the company's generation facilities are located shall be required to make payments in lieu of taxes to any municipality in which an affiliated generation facility, as defined in section 1 of chapter 164, or part thereof, is located and has been devalued for property tax payment purposes or has terminated operations. Said payments shall offset any reduction of property tax monies paid to a city or town as a result of any devaluation of said generation facility and shall be paid for a period of 13 years. For the purposes of this section, "fiscal year" shall be determined by sections 56 and 56A of

chapter 44. For fiscal years 1998, 1999, and 2000, such payments shall be equivalent to the local property tax value of the property in fiscal year 1997. From fiscal year 2001 through fiscal year 2010, such future payment shall be equivalent to the fair cash value of the property determined as of January first of each year multiplied by the applicable commercial tax rate for each fiscal year, plus an amount calculated by the following formula:

(i) For fiscal year 2001, the calculated amount shall be equivalent to 90 percent of the difference between the local property tax value of the property as of January 1, 1997, and the fair cash value of the property as of January 1, 2000, multiplied by the applicable commercial tax rate for the fiscal year 2001;

(ii) For fiscal year 2002, the calculated amount shall be equivalent to 80 percent of the difference between the local property tax value of the property as of January 1, 1997, and the fair cash value of the property as of January 1, 2001, multiplied by the applicable commercial tax rate for the fiscal year 2002;

(iii) For fiscal year 2003, the calculated amount shall be equivalent to 70 percent of the difference between the local property tax value of the property as of January 1, 1997, and the fair cash value of the property as of January 1, 2002, multiplied by the applicable commercial tax rate for the fiscal year 2003;

(iv) For fiscal year 2004, the calculated amount shall be equivalent to 60 percent of the difference between the local property tax value of the property as of January 1, 1997, and the fair cash value of the property as of January 1, 2003, multiplied by the applicable commercial tax rate for the fiscal year 2004;

(v) For fiscal year 2005, the calculated amount shall be equivalent to 50 percent of the difference between the local property tax value of the property as of January 1, 1997, and the fair cash value of the property as of January 1, 2004, multiplied by the applicable commercial tax rate for the fiscal year 2005;

(vi) For fiscal year 2006, the calculated amount shall be equivalent to 40 percent of the difference between the local property tax value of the property as of January 1, 1997, and the fair cash value of the property as of January 1, 2005, multiplied by the applicable commercial tax rate for the fiscal year 2006;

(vii) For fiscal year 2007, the calculated amount shall be equivalent to 30 percent of the difference between the local property tax value of the property as of January 1, 1997, and the fair cash value of the property as of January 1, 2006, multiplied by the applicable commercial tax rate for the fiscal year 2007;

(viii) For fiscal year 2008, the calculated amount shall be equivalent to 20 percent of the difference between the local property tax value of the property as of January 1, 1997, and the fair cash value of the property as of January 1, 2007, multiplied by the applicable commercial tax rate for the fiscal year 2008;

(ix) For fiscal year 2009, the calculated amount shall be equivalent to 10 percent of the difference between the local property tax value of the property as of January 1, 1997, and the fair cash value of the property as of January 1, 2008, multiplied by the applicable commercial tax rate for the fiscal year 2009.

(x) For fiscal year 2010, such payment shall be equivalent to the fair cash value of the property as of January 1, 2009, multiplied by the applicable commercial tax rate for

fiscal year 2010, or any other such amount agreed to by the company and the municipality.

(b) Subject to the provisions of subsection (a), municipalities may negotiate agreements for additional payments or payments in lieu of taxes with generation companies, and said companies shall be exempt from property taxes in whole or in part, as provided in any such agreements during the terms thereof.

(c) To be eligible to collect any amount in retail rates pursuant to the provisions of chapter 164, whether through a transition charge or otherwise, which amount reflects in whole or in part the stranded investments of any nuclear-powered generating facility in the commonwealth which exceeds 250 megawatts in size and which was owned in whole or in part by an electric utility as of January 1, 1997, whether or not such generating facility is in service as of the date of the collection in rates of the stranded investments, other than those generating facilities which utilize fossil fuels and which either have been sold at an arms-length sale to an unaffiliated third party or retained by the electric company pursuant to the provisions of said chapter 164, an electric utility shall produce evidence to the department of regulated industries of an executive agreement with the host community for payments in lieu of taxes for such generating facility; provided, that such agreement shall cover a period of time the greater of which is the licensed termination date of such facility, as included in the original license or in a renewal of such license, or 15 years.

(d) Beginning July 1, 1998, and for a period of five years thereafter expiring on June 30, 2003, each distribution company shall include a charge of one-half of one mill ($0.0005) per kilowatt-hour for all electricity customers in the commonwealth, except those served by a municipal lighting plant which does not supply generation service outside its own service territory. Revenues derived from said charge shall be remitted by each distribution company to the commonwealth for deposit into the municipal property tax assistance fund, established pursuant to section 2PP of chapter 29, to assist municipalities which suffer undue fiscal hardship as a result of reduced property tax revenues from either the devaluation of property on which is located electricity generation facilities or the sale by electric or generation companies of such property and the termination of generation activities thereon. Said revenues to be made available to such affected communities shall be in addition to other payments made to said municipalities pursuant to subsections (a) and (b).

SECTION 67. Section 6 of chapter 64H of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 325, the words "Department of Public Utilities" and inserting in place thereof the following words:- department of regulated industries.

SECTION 68. Said section 6 of said chapter 64H, as so appearing, is hereby further amended by striking, in line 329, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 69. Section 3 of chapter 79 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 10, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 70. Section 5B of said chapter 79, as so appearing, is hereby amended by striking, in line 13, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 71. Section 5C of said chapter 79, as so appearing, is hereby amended by striking, in line 7, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 72. Section 13 of chapter 81A of the General Laws, as added by section 6 of chapter 3 of the Acts of 1997, is hereby amended by striking in the second sentence of the third paragraph the words "department of public utilities" and inserting in place thereof the following words:- department of regulated industries.

SECTION 73. Section 40 of chapter 82 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in lines 111 and 112, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 74. Section 1 of chapter 83 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 39, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 75. Section 4 of said chapter 83, as so appearing, is hereby amended by striking, in line 16, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 76. Section 1 of chapter 90 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 313, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 77. Section 1A of said chapter 90, as so appearing, is hereby amended by striking, in line 5, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 78. Section 7B of said chapter 90, as so appearing, is hereby amended by striking, in line 25, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 79. Said section 7B of said chapter 90, as so appearing, is hereby further amended by striking, in line 124, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 80. Said section 7B of said chapter 90, as so appearing, is hereby further amended by striking, in line 153, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 81. Said section 7B of said chapter 90, as so appearing, is hereby further amended by striking, in line 252, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 82. Section 8A of said chapter 90, as so appearing, is hereby amended by striking, in line 37, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 83. Said section 8A of said chapter 90, as so appearing, is hereby further amended by striking, in line 41, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 84. Said section 8A of said chapter 90, as so appearing, is hereby further amended by striking, in line 43, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 85. Said section 8A of said chapter 90, as so appearing, is hereby further amended by striking, in line 47, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 86. Section 8A1/2 of said chapter 90, as so appearing, is hereby amended by striking, in line 42, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 87. Section 9 of said chapter 90, as so appearing, is hereby amended by striking, in line 13, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 88. Section 33 of said chapter 90, as so appearing, is hereby amended by striking, in line 35, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 89. Section 40H of said chapter 90, as so appearing, is hereby amended by striking, in line 2, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 90. Section 1 of chapter 90C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 70, in the definition of "Police officer" the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 91. Section 43 of chapter 92 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 2, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 92. Section 44 of said chapter 92, as so appearing, is hereby amended by striking, in line 18, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 93. Section 50 of said chapter 92, as so appearing, is hereby amended by striking, in line 6, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 94. Section 51 of said chapter 92, as so appearing, is hereby amended by striking, in line 1, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 95. Section 67 of said chapter 92, as so appearing, is hereby amended by striking, in lines 11 and 12, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 96. Section 68 of said chapter 92, as so appearing, is hereby amended by striking, in line 6, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 97. Section 24 of chapter 93 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in lines 10 and 11, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 98 Section 8 of chapter 110C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in lines 3 and 4, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 99. Section 5K of chapter 111 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after subsection (D) the following new subsection:-

(E) The department is hereby authorized to make an assessment against the operator of each existing and proposed nuclear power plant in the commonwealth in an amount equal to the costs incurred in the prior fiscal year by the department's radiation control program in the performance of its duties under this section. The department is hereby further authorized to make a collection, based on that assessment, of monies from said operators of nuclear power plants to defray the cost of those activities. Said amount shall not exceed $75,000 per annum, per facility. The department shall send notice of its assessment to the individual company against which the assessment is made, and said company shall pay such assessment within 30 days of the notice of the assessment; provided, however, that such company shall have a reasonable opportunity to submit

objections concerning said assessment to the department for review. If, after completion of such review, the department determines the assessment is valid, the department shall issue a demand for such assessment, and the company against which such assessment is made shall pay such assessment immediately. If a company subject to assessment under this section fails to pay the assessment within 30 days of the notice of the assessment, or fails to pay the demand for assessment upon completion of the final review, whichever occurs later, the department may refer such matter to the department of revenue for the collection of the assessment in accordance with applicable enforcement provisions pursuant to chapter 62C. The amount so collected shall be deposited into the General Fund and credited to the department.

SECTION 100. Chapter 111 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 142M the following new section:-

Section 142N. (a) For the purpose of preventing, mitigating, or alleviating impacts on the resources of the commonwealth and to the health of its citizens from pollutants emitted by electric generating facilities serving retail customers in the commonwealth, the executive office of environmental affairs, the department of environmental protection, the department of regulated industries, and the attorney general shall develop and promote policies to encourage, through all feasible means and measures, states where fossil-fueled generating units producing air emissions are located to reduce such air emissions over time to levels which enable cost-effective attainment of environmental standards within the commonwealth, in part by reducing emissions from existing electric power plants to levels comparable to those that new power plants shall meet.

(b) Beginning January 1, 2000, any electric generating facility, as defined pursuant to section 1 of chapter 164, greater than 10 megawatts of nameplate capacity located within the commonwealth which generates electricity for wholesale or retail sale through the combustion or utilization of fossil or renewable fuels, in addition to any other applicable state or federal air emissions standard, may not exceed the emissions performance standard, as established pursuant to subsection (c), for nitrogen oxides and sulfur dioxides.

(c) The emissions performance standard for facilities regulated pursuant to subsection (b) shall be established in advance of each year by the department of environmental protection and revised annually. Said emissions performance standard shall be equal to the annual emissions cap as set forth herein, divided by the projected megawatt hours to be generated in that year from all facilities regulated pursuant to subsection (b). The annual emissions cap for nitrogen oxides and sulfur dioxides to be used by said department for calculation of the emissions performance standard shall be calculated by multiplying the amount of total megawatt hour production in 1995 from all fossil-fueled facilities located in the commonwealth times the following emissions factors: (i) for nitrogen oxides, 1.35 pounds per megawatt hour generated; and (ii) for sulfur dioxides, 3.0 pounds per megawatt hour generated.

(d) The department of environmental protection shall, no later than March 1, 1999, promulgate rules and regulations under which any facility governed pursuant to subsection (b) may demonstrate compliance with subsection (b) through an emissions cap

and trade program allowing for the purchase of emissions offsets from other facilities. In the case of nitrogen oxides, such rules and regulations shall allow offsets to be obtained only from facilities governed pursuant to subsection (b). In the case of sulfur dioxides, such rules and regulations shall allow offsets to be obtained from electric generating facilities governed pursuant to subsection (b) and out-of-state electric generating facilities substantially contributing to sulfur dioxide-related air emissions impacts within the commonwealth.

SECTION 101. Section 81R of chapter 112 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in lines 82 and 83, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 102. Section 34A of chapter 132 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 13, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 103. Said section 34A of said chapter 132, as so appearing, is hereby further amended by striking, in line 25, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 104. Said section 34A of said chapter 132, as so appearing, is hereby further amended by striking, in line 35, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 105. Said section 34A of said chapter 132, as so appearing, is hereby further amended by striking, in line 37, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 106. Section 16 of chapter 132A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 15, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 107. Section 7 of chapter 141 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 18, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 108. Section 14 of chapter 142A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 37, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 109. Section 71S of chapter 143 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in lines 4 and 5, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 110. Section 57 of chapter 147 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 18, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 111. Section 26E of chapter 148 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 30, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 112. Section 148 of chapter 149 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 26, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 113. Chapter 151A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 71H the following new section:-

Labor

Section 71I. (a) Any employee of a generation facility, as defined in section 1 of chapter 164, who is terminated after January 1, 1997, through no fault of his own, and is otherwise eligible for unemployment benefits, shall receive reemployment assistance benefits, as provided pursuant to section 71F of this chapter, and health insurance benefits, as provided pursuant to section 71G of this chapter. Such benefits shall be in addition to any benefits any employee may receive pursuant to the provisions of an agreement resulting from collective bargaining by the owners of generation facilities, who owned such facilities as of January 1, 1997, and an organization or organizations representing such employee in any such negotiations of said agreement.

(b) Any employer at a generation facility where such eligible employee had been terminated shall be billed an amount equal to 100 percent of the amount of reemployment assistance benefits paid under said section 71F and an amount equal to 100 percent of the amount of health insurance benefits paid under said section 71G, and shall otherwise be subject to section 71H of this chapter.

SECTION 114. Section 4 of chapter 155 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 3, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 115. Section 5 of said chapter 155, as so appearing, is hereby amended by striking, in line 1, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 116. Section 5A of said chapter 155, as so appearing, is hereby amended by striking, in line 1, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 117. Section 16 of chapter 158 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 7, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 118. Section 39 of said chapter 158, as so appearing, is hereby amended by striking, in line 8, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 119. Section 40 of said chapter 158, as so appearing, is hereby amended by striking, in line 4, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 120. Section 10 of chapter 159 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 1, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 121. Said chapter 159, as so appearing, is hereby further amended by inserting after section 16A the following new section:-

Section 16B. The department shall, within 24 hours after the issuance of any order or the promulgation of any rule or regulation establishing, altering, amending, or in any way affecting the composition of telephone area codes in the commonwealth pursuant to section 16 of this chapter or any other provision of state or federal law, file written notification with the joint committee on government regulations of the general court and the legislators representing the cities and towns affected by any such order, rule, or regulation. Within 15 days of the filing of such written notification, said joint committee on government regulations shall conduct a public hearing or hearings to receive oral testimony from the department relative to the elements and reasons for such order, rule, or regulation and to receive testimony from any other interested parties. Failure of the department to comply with the provisions of this section shall void the implementation of any such order, rule, or regulation.

SECTION 122. Section 19 of said chapter 159, as so appearing, is hereby amended by striking, in line 13, the words "the 508 area code" and inserting in place thereof the following:- the 508, 781, and 978 area codes.

SECTION 123. Section 59 of said chapter 159, as so appearing, is hereby amended by striking, in lines 11 and 12, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 124. Said section 59 of said chapter 159, as so appearing, is hereby further amended by striking, in line 15, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 125. Said section 59 of said chapter 159, as so appearing, is hereby further amended by striking, in line 26, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 126. Said section 59 of said chapter 159, as so appearing, is hereby further amended by striking, in line 28, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 127. Section 65 of said chapter 159, as so appearing, is hereby amended by striking, in line 5, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 128. Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking, in line 18, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 129. Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking, in lines 23 and 24, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 130. Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking, in line 27, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 131. Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking, in line 28, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 132. Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking, in line 37, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 133. Section 70 of said chapter 159, as so appearing, is hereby amended by striking, in line 21, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 134. Said section 70 of said chapter 159, as so appearing, is hereby further amended by striking, in line 51, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 135. Said section 70 of said chapter 159, as so appearing, is hereby further amended by striking, in line 63, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 136. Said section 70 of said chapter 159, as so appearing, is hereby further amended by striking, in line 65, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 137. Section 73 of said chapter 159, as so appearing, is hereby amended by striking, in line 5, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 138. Section 74 of said chapter 159, as so appearing, is hereby amended by striking, in line 4, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 139. Said section 74 of said chapter 159, as so appearing, is hereby further amended by striking, in line 17, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 140. Said section 74 of said chapter 159, as so appearing, is hereby further amended by striking, in line 21, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 141. Said section 74 of said chapter 159, as so appearing, is hereby further amended by striking, in line 46, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 142. Section 78 of said chapter 159, as so appearing, is hereby amended by striking, in line 19, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 143. Section 79 of said chapter 159, as so appearing, is hereby amended by striking, in lines 5 and 6, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 144. Section 80 of said chapter 159, as so appearing, is hereby amended by striking, in line 23, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 145. Said section 80 of said chapter 159, as so appearing, is hereby further amended by striking, in lines 34 and 35, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 146. Said section 80 of said chapter 159, as so appearing, is hereby further amended by striking, in lines 35 and 36, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 147. Said section 80 of said chapter 159, as so appearing, is hereby further amended by striking, in line 40, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 159. Section 134A of said chapter 160, as so appearing, is hereby amended by striking, in lines 30 and 31, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 160. Said section 134A of said chapter 160, as so appearing, is hereby further amended by striking, in line 35, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 161. Section 145 of said chapter 160, as so appearing, is hereby amended by striking, in line 3, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 162. Section 147A of said chapter 160, as so appearing, is hereby amended by striking, in lines 3 and 4, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 163. Section 1 of chapter 161 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 8, in the definition of "Department" the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 164. Section 82 of said chapter 161, as so appearing, is hereby amended by striking, in line 9, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 165. Section 85 of said chapter 161, as so appearing, is hereby amended by striking, in line 16, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 166. Said section 85 of said chapter 161, as so appearing, is hereby further amended by striking, in lines 19 and 20, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 167. Said section 85 of said chapter 161, as so appearing, is hereby further amended by striking, in line 21, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 168. Said section 85 of said chapter 161, as so appearing, is hereby further amended by striking, in line 26, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 169. Section 3 of chapter 161A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in lines 72 and 73, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 170. Section 5 of said chapter 161A, as so appearing, is hereby amended by striking, in line 184, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 171. Section 11A of said chapter 161A, as so appearing, is hereby amended by striking, in line 7, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 172. Section 22 of said chapter 161A, as so appearing, is hereby amended by striking, in line 2, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 173. Said section 22 of said chapter 161A, as so appearing, is hereby further amended by striking, in line 4, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 174. Section 6 of chapter 161B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 61, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 175. Section 8 of said chapter 161B, as so appearing, is hereby amended by striking, in line 82, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 176. Said chapter 161B, as so appearing, is hereby amended by striking section 16 and inserting in place thereof the following new section:-

Section 16. In the event of any conflict between the regulatory powers and duties of the department of regulated industries in respect to mass transportation service within an area, the department of regulated industries shall resolve such dispute and exercise such powers as it deems required in the particular instance.

SECTION 177. Section 1 of chapter 162 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 2, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 178. Section 1 of chapter 163 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 2, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 179. Section 1 of chapter 164 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting before the definition of "Alternative energy producer" the following new definition:-

"Aggregator", an entity which groups together electricity customers for retail sale purposes, except for public entities, quasi-public entities or authorities, or subsidiary organizations thereof, established pursuant to the laws of the commonwealth.

SECTION 180. Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Alternative energy producer" the following new definition:-

"Ancillary services", those functions which support generation, transmission, and distribution, and shall include the following services: (1) reactive power/voltage control; (2) loss compensation; (3) scheduling and dispatch; (4) load following; (5) system protection service; and (6) energy imbalance service.

SECTION 181. Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Cogeneration facility" the following new definition:-

"Contract termination fee", the fees owed by the distribution company to its wholesale power supplier, as determined and approved by the department.

SECTION 182. Said section 1 of said chapter 164, as so appearing, is hereby further amended by striking, in line 59, in the definition of "Department" the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 183. Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Department" the following new definitions:-

"Distributed generation", a generation facility or renewable energy facility connected directly to distribution facilities or to retail customer facilities which alleviate or avoid transmission or distribution constraints or the installation of new transmission facilities or distribution facilities.

"Distribution", the delivery of electricity over lines which operate at a voltage level typically equal to or greater than 110 volts and less than 69,000 volts to an end-use customer within the commonwealth. The distribution of electricity shall be subject to the jurisdiction of the department.

"Distribution company", a company engaging in the distribution of electricity or owning, operating, or controlling distribution facilities.

"Distribution facility", plant or equipment used for the distribution of electricity and which is not a transmission facility, a cogeneration facility, or a small power production facility.

"Distribution service", the delivery of electricity to the customer by the electric distribution company from points on the transmission system or from a generating plant, at distribution voltage.

SECTION 184. Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting in the definition of "Electric company", in line 62, after the words "or distributing and selling," the following words:- or only distributing,.

SECTION 185. Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Electric company" the following new definitions:-

"Electric service", the provision of generation, transmission, distribution, or ancillary services.

"Energy efficiency", the implementation of an action, policy, or measure which entails the application of the least amount of energy required to produce a desired or given output.

"FERC", the federal energy regulatory commission.

SECTION 186. Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Gas company" the following new definitions:-

"Generation", the act or process of transforming other forms of energy into electric energy, or the amount of electric energy so produced.

"Generation company", a company engaged in the business of producing, manufacturing, or generating electricity for sale at wholesale or for retail sale to the public.

"Generation facility", plant or equipment used to produce, manufacture, or otherwise generate electricity and which is not a transmission facility.

"Generation service", the provision of generation and related services to a customer.

"Horizontal market power", a situation in which one or a few market participants combined have undue concentration in the ownership of facilities at the same level in the chain of production resulting in the ability to influence price to his or their own benefit.

"Mitigation", all actions or occurrences which reduce the amount of money that a distribution company seeks to collect through the transition charge, including those amounts resulting from both matters within the company's control and from matters not wholly within the company's control. Mitigation shall, in accordance with the provisions of section 1H of this chapter, include, but not be limited to, the following: (1) sales of capacity, energy, ancillary services, reserves, and emission allowances from generating facilities that are wholly or partly owned by the company; (2) sales of capacity, energy, ancillary services, reserves, and emission allowances from generating facilities with which the company has a power purchase agreement; (3) adjustments to the company's minimum obligations under purchase power agreements that decrease such obligations, such as those that may be obtained through contract buy-out or renegotiation; (4) residual value; (5) sales and voluntary write downs of company assets; and (6) any allowed refinancing of stranded assets or other debt obligations as provided by law.

SECTION 187. Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Primary energy source" the following new definitions:-

"Renewable energy" or "renewables", either (i) resources whose common characteristic is that they are nondepletable or are naturally replenishable but flow-limited, or (ii) existing or emerging non-fossil fuel energy sources or technologies, which have significant potential for commercialization in New England and New York, and

shall include the following: solar photovoltaic or solar thermal electric energy; wind energy; ocean thermal, wave, or tidal energy; fuel cells utilizing renewable fuels; landfill gas; waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; flowing water and hydroelectric; and low-emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel. The following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells, and nuclear power.

"Residual value", the value of electric company assets, not including the income which may be obtained through generation facility operation.

"Retail access", the use of transmission and distribution facilities owned by a transmission company or a distribution company to transmit or distribute electricity from a generation company, supplier, or aggregator to retail customers.

"Retail customer", a customer who purchases electricity for its own consumption.

"Service territory", the geographic area in which a distribution company provided distribution service on July 1, 1997.

SECTION 188. Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Small power production facility" the following new definitions:-

"Statewide base rate", the average of the total standard service transition rate, together with transmission, distribution, and transition charges, all distribution companies in the commonwealth collected as of March 2, 1998, broken out and established by the department for each classification of ratepayer.

"Supplier", any supplier of generation service to retail customers, including power marketers, brokers, and marketing affiliates of distribution companies, except that no electric company shall be considered a supplier.

SECTION 189. Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Supplying electricity in bulk" the following new definitions:-

"Transition charge", the charge that provides the mechanism for recovery of an electric company's transition costs.

"Transition costs", the embedded costs as determined pursuant to section 1H of this chapter which remain after accounting for maximum possible mitigation, subject to determination by the department and the board of electricity transition costs.

"Transmission", the delivery of power over lines that operate at a voltage level typically equal to or greater than 69,000 volts from generating facilities across interconnected high voltage lines to where it enters a distribution system.

"Transmission company", a company engaging in the transmission of electricity or owning, operating, or controlling transmission facilities. A transmission company shall provide transmission service to all generation companies, suppliers, and load aggregators in the commonwealth, whether affiliated or not, on comparable, nondiscriminatory prices and terms, pursuant to provisions of federal law and regulation.

"Transmission facility", plant or equipment used for the transmission of electricity, as determined by the federal energy regulatory commission pursuant to federal law and regulation.

"Transmission service", the delivery of electricity to a retail customer, supplier, distribution company, or wholesale customer by a transmission company.

"Unbundled rates", rates designed to separate the costs of providing generation, the costs of transmission and distribution services, and transition and general access charges.

"Vertical market power", a situation in which one or a few market participants, having joint ownership of facilities at differing levels of the chain of production, such as generation, transmission, and distribution, possess the ability to use such joint ownership to influence price to the participants' own benefit.

SECTION 190. Said chapter 164, as so appearing, is hereby further amended by inserting after section 1 the following new sections:-

divestiture optional

Section 1A. (a) Except as provided herein, each electric company may, at its sole discretion, divest itself of its existing generation facilities.

(b)(1) If an electric company chooses to divest itself of its existing generation facilities, such electric company shall transfer or separate ownership of generation, transmission, and distribution facilities into independent affiliates of the electric company on or before March 1, 1998. The transmission facilities owned by the electric company shall be transferred to a transmission company at a price that shall equal the book value of the transmission facilities on the electric company's accounts net of depreciation as of the date of transfer. The distribution facilities owned by an electric company shall be transferred to a successor distribution company at a price that shall equal the book value of the distribution facilities on the electric company's accounts net of depreciation as of the date of transfer. The newly created distribution companies shall be prohibited from selling electricity at retail, except as provided in sections 1B through 1G, inclusive, and 1I of this chapter, and shall be prohibited from directly owning, operating, or controlling transmission facilities, generating facilities, or marketing affiliates. Except as otherwise provided in this section, an electric company divesting existing generation facilities shall be in no way disadvantaged by virtue of the fact that it has or plans to divest its existing electricity generating facilities. In the event that an electric company chooses to divest its existing generation facilities, such electric company shall demonstrate to the department that the sale process is equitable and maximizes the price of the existing generation facilities being sold.

(2) For the purposes of sections 1A through 1L, inclusive, of this chapter, the requirement to divest generation facilities may be deemed satisfied if an electric company divests its non-nuclear generation facilities by (i) selling such non-nuclear facilities in a competitive auction or sale in a process approved by the department which shall ensure complete and uninhibited access to all data and information by any and all interested parties seeking to participate in such auction or sale; provided, that an affiliated company may participate and bid in such competitive auction or sale; or (ii) transferring such non-nuclear generation facilities to an affiliated company at a value determined to be reasonable and appropriate by the department, in consultation with the board of electricity

transition costs and the state auditor, based on the sale value of comparable plants through prior divestiture actions.

(3) All proceeds from any such divestiture and sale of generation facilities pursuant to paragraphs (1) and (2) shall be applied to reduce the amount of the selling electric company's transition costs.

(c) The generation facilities owned by an electric company which does not divest itself of its generation facilities shall be transferred to an affiliate that is a generating company at a price that shall equal the book value of the generation facilities on the electric company's accounts net of depreciation and deferred taxes as of March 1, 1998. Such generation facilities affiliate shall exist separate from and independent of the distribution and transmission operations of such electric company. There shall exist a fire wall between such generation affiliate and the distribution and transmission operations of such electric company. All generation facilities shall be subject to a valuation by a date determined by the department where such facilities are either sold or assessed by an assessor independent of the electric company or otherwise divested pursuant to the provisions of this chapter, to determine the actual market price of such assets in a competitive market. A generation company formed pursuant to this section shall be prohibited from acquiring new generation facilities as of March 1, 1998. Such electric company shall not be assessed or charged any costs through its rates established by the department to transfer such generation facilities to an unregulated affiliate or subsidiary or as a consequence of transferring such generation facilities to an unregulated affiliate or subsidiary; provided, however, that should any generation facility so transferred to an unregulated subsidiary be further sold, transferred to, or disposed of, to a third party within 48 months of the generation facility's transfer to an unregulated affiliate or subsidiary of the electric company, then any amount recovered in such a sale, transfer, or disposition in excess of the remaining net book value of the generation facility shall be applied to reduce the amount of the selling electric company's transition costs. Except as otherwise provided in this section, an electric company retaining all or a portion of its existing generation facilities shall be in no way disadvantaged by virtue of the fact that it is so retaining existing generation facilities.

(d) In the event that (i) an electric company with generation facilities in the commonwealth owns, or has an affiliate that owns, generation facilities in another state in the New England region, and (ii) an electric company or its affiliate continues to operate one or more generation facilities in another state in the New England region, then the electric company, should it choose not to divest its existing fossil-fuel fired generation facilities and its existing hydroelectric generation facilities, shall be allowed for purposes of efficiency and local ownership of local generation facilities, to retain such facilities; provided, however, that an electric company not divesting its existing fossil-fuel fired and hydroelectric generation facilities shall not recover through rates, charges, or elsewhere any amount of transition costs associated with the retained existing fossil-fuel fired generation facilities and existing hydroelectric generation facilities. Each reference to existing generation facilities in this section shall include, without limitation, existing generation facilities, regardless of size, and associated property.

(e) A generation company shall not be subject to regulation as a public utility or as an electric company, except as specifically provided in this chapter.

Section 1B. (a) Each distribution company formed pursuant to section 1A of this chapter shall offer a standard service transition rate to those customers who are served by the company prior to March 1, 1998, and choose not to purchase electricity from a non-utility affiliated generating company after March 1, 1998. This service package shall be offered for a transition period of seven years and shall require a distribution company to purchase electricity for such customers at competitive rates from a non-affiliated generating company as reviewed and approved by the department. All customers who have chosen retail access from a non-affiliated generation company but who otherwise require electric service due to a company's failure to provide contracted service shall be eligible for service through the distribution company's default service pursuant to section 1C of this chapter. The department is authorized and directed to promulgate rules and regulations consistent with the provisions of this section; provided, that said regulations shall also include provisions governing a customer's ability to return to the standard service after choosing retail access from a non-utility affiliated generation company.

(b) A distribution company shall provide a standard service transition rate which, together with the transmission, distribution, and transition charges, produces a rate reduction for all retail customers of at least 15 percent beginning on March 1, 1998, from the average of the undiscounted rates for the sale of electricity in effect during August 1997 or such other date as the department may determine to be representative of 1997 rates for such company; provided, however, that such rate for electricity by and on March 1, 2001, shall be no higher than 115 percent of the statewide base rate in effect on March 2, 1998.

Section 1C. Beginning on March 1, 1998, each distribution company shall provide its customers with default service and shall offer a default service rate to its customers who have chosen retail electricity service from a non-utility affiliated generation company or supplier but who require electric service because of a failure of such company or the supplier to provide contracted service or who, for any reason, have stopped receiving such service, and to all customers at the end of the term of the standard offer. The distribution company shall procure such service though competitive bidding; provided, however, that the default service rate so procured shall not exceed the average monthly spot market price of electricity; and provided, further, that all bids shall include payment options with rates that remain uniform for periods of three months, six months, and one year. Any department-approved provider of service, including an affiliate of a distribution company, shall be eligible to participate in the competitive bidding process. Notwithstanding the actual issuer of a ratepayer's bill, the default service provider shall be entitled to furnish a one-page insert accompanying the ratepayer's bill. The department may authorize an alternate generation company or supplier to provide default service, as described herein, if such alternate service is in the public interest. In implementing the provisions of section 1B and this section, the department shall ensure universal service for all ratepayers and sufficient funding to meet the need therefor. The department is authorized and directed to promulgate rules and regulations consistent with the provisions of this section, including, but not limited to, rules and regulations establishing the procedure for default service procurement.

Section 1D. (a) Except as otherwise provided in chapter 164, each distribution company formed pursuant to the provisions of this chapter shall continue to be the

exclusive provider of distribution services in its territory served by such company on March 1, 1998; provided, however, that such service territory exclusivity shall expire on March 1, 2005. Costs associated with distribution services provided by such distribution company shall be paid to the electric distribution company by suppliers or shall be collected through distribution rates as determined by the department.

(b) Any marketing company formed by an electric company shall be in the form of an affiliate of the electric company and shall be separate from any generation, transmission, or distribution company affiliate of the electric company. The department shall promulgate standards of conduct which shall ensure the separation of such affiliates and which shall be consistent with the following provisions: (i) a distribution company shall not give any affiliates any preference over non-affiliated suppliers or customers thereof in matters relating to any product or service: (ii) a distribution company shall not sell or otherwise provide any product or service to any affiliate without first making a sufficient offering to the market thereof; (iii) all products, services, discounts, rebates, and fee waivers offered by a distribution company shall be available to all customers and suppliers simultaneously, to the extent technically possible, on a comparable basis; (iv) a distribution company shall process all same similar requests for any product, service, or information in the same manner and within the same period of time; (v) a distribution company shall not condition or tie the provision of any product, service, or rate agreement by the distribution company to the provision of any product or service to which an affiliate is involved; (vi) a distribution company shall not share with any affiliate any market information acquired or developed by the distribution company in the course of responding to requests for distribution service or any proprietary customer information without the prior written authorization by the customer; (vii) a distribution company shall refrain from presenting that any advantage accrues to customers or others in the use of its services as a result of that customer or others dealing with any such affiliate; (viii) a distribution company shall not engage in joint advertising or marketing programs with any affiliate; and (ix) employees of a distribution company shall not be shared with, and shall be physically separated from those of, any affiliate.

Section 1E. Beginning January 1, 1998, all electric bills sent to a retail customer shall be unbundled to separately reflect the rates charged for generation, transmission, and distribution services, as well as any other charges, as added pursuant to any provision of law, contained in the total retail price. Any access charge, if so allowed to be assessed, shall be reflected separately on bills as of March 1, 1998. Electric bills may reflect the total costs of services, without breakdown for type of service, in addition to, but not instead of, separately itemized rates for generation, transmission, and distribution services and access charges as of March 1, 1998. Generation companies and distribution companies shall be required to disclose on such electric bills the fuel type and location of the generation source or sources used to supply electricity sold to the customer. The department is hereby authorized and directed to promulgate rules and regulations to implement the provisions of this subsection.

Section 1F. The department is hereby authorized and directed to require electric companies organized pursuant to the provisions of this chapter to accommodate retail access to generation services and choice of suppliers by retail customers, unless otherwise provided by this chapter. The department shall promulgate rules and regulations to

provide retail customers with the utmost consumer protections contained in law, including, but not limited to, the following provisions:

(1) On or before January 1, 1998, each electric company organized under the provisions of this chapter shall file with the department a detailed plan for restructuring its operations to allow for the introduction of retail competition in generation supply in accordance with the provisions of this chapter. The department shall review each plan and determine whether such plan is consistent with the provisions of this chapter. Each plan shall be designed to allow an electric company formed under the provisions of this chapter to compete in a restructured electric generation market by March 1, 1998. Each distribution company shall offer retail access to all customers as of said date.

(2)(i) In order to mitigate any costs in excess of the projected market value of power associated with purchased power contracts approved by the department on or by December 31, 1995, except with respect to facilities which burn trash to generate electricity, electric companies and the sellers under such contracts shall, in compliance with clause (ii) of paragraph (1) of subsection (e) of section 1H of this chapter, make good faith efforts to renegotiate those contracts which contain a price for electricity which is above-market as of March 1, 1998, in order to achieve reductions in the transition charges, authorized to be assessed pursuant to paragraph (3) herein and section 1H of this chapter, which are attributable to any such contract, as determined by the department and the board of electricity transition costs. Beginning July 1, 1998, and every 90 days thereafter, the department shall continue to review said aforementioned purchased power contracts in order to determine if such contracts contain a price for electricity which is above-market as of the date of review. If such contract is determined to be above-market, the electric company and the seller under such contract shall, in accordance with the provisions of this chapter, attempt to make a good-faith effort to renegotiate such contract in order to achieve further reductions in the transition charge.

(ii) Upon a finding by the department that a negotiated contract buyout or other modification to the terms and conditions of such contracts is likely to achieve savings to the ratepayers and is otherwise in the public interest, the remaining amounts in excess of market value associated with such contract shall be included in the transition charges, which are authorized to be assessed pursuant to said paragraph (3) and said section 1H, and upon completion of mitigation pursuant to subsection (e) of said section 1H. Upon a finding by the department that a seller has made a bona fide offer for a contract buyout or modification which is likely to achieve ratepayer savings and is otherwise in the public interest, which offer has been refused by the purchasing electric company, only those amounts in excess of market value associated with such contract that would not have been mitigated by such offer shall be included in the transition charges authorized pursuant to said paragraph (3) and said section 1H, and the seller shall be deemed to have met its obligation to negotiate in good faith. In order to compel such negotiations, (a) electricity companies are hereby authorized to use securitization, only to the extent allowed pursuant to section 1J of this chapter, to finance the costs of buydowns or buyouts of said contracts, and (b) the department shall not begin to review a registration application filed pursuant to subparagraph (i) of paragraph (4) of this section until such company with a purchased power contract with a price determined to be above-market commences such good faith efforts with such electric company. The board of electricity transition costs,

established pursuant to section 1H of this chapter, in consultation with the department, is hereby authorized to approve the recovery of such costs associated with such contract buydowns or buyouts and to determine the extent to which utility companies shall share in any resulting savings to the ratepayers of the commonwealth. At least every 30 days, said companies shall report the status of such renegotiations to the department.

(3) The department is hereby authorized and directed to establish a non-bypassable transition charge for each existing electric company and establish the purposes for which this charge may be utilized by said electric companies in accordance with the provisions of section 1H of this chapter. Each existing electric company shall have the burden of establishing the existence, if any, and the amount of such transition costs in accordance with the provisions of section 1H and the regulations promulgated by the department and the board of electricity transition costs.

(4) The department shall maintain and update as circumstances demand a compilation of all generation companies, aggregators, suppliers, energy marketers, and energy brokers registered with the department and licensed by the secretary of state to do business in the commonwealth in accordance with the provisions of subparagraphs (i), (ii), and (iii). Such list of all registered generation companies, aggregators, energy brokers, energy marketers, and suppliers shall be available to any consumer wishing to access such information through the department.

(i) All generation companies shall, as a condition precedent to receiving a license to do business in the commonwealth from the secretary of state, submit a registration application to the department for approval to sell electric power to retail customers within the commonwealth. Such application shall include the following: the company's technical ability to generate or otherwise obtain and deliver electricity and provide any other proposed services; documentation of financial capability of the applicant to provide the proposed services; a description of the company's form of ownership; and documentation regarding any valid purchase power contracts between the company, the company's affiliates, or the company's parent or subsidiary, and any electric company formed pursuant to the provisions of this chapter. A license shall not be granted unless and until all of the above information is provided with the payment of a fee, the amount to be determined by the department. Any generation company licensed pursuant to this section shall be required to file an annual report with the department.

(ii) All private, non-profit, or co-operative aggregators established pursuant to sections 135 and 136 of this chapter shall, as a condition precedent to receiving a license to do business in the commonwealth from the secretary of state, submit a registration application to the department, subject to rules and regulations promulgated by the department and subject to the payment of a fee, the amount to be determined by the department.

(iii) All energy brokers, energy marketers, and other suppliers doing business in the commonwealth shall, as a condition precedent to receiving a license to do business in the commonwealth from the secretary of state, submit a registration application to the department, subject to rules and regulations promulgated by the department and subject to the payment of a fee, the amount to be determined by the department.

(5) The department is hereby authorized and directed to establish and advertise a citizen's electricity hotline with a toll-free "1-800" telephone number that shall be utilized

to respond to consumer questions and complaints about their electricity service and the transition to a competitive retail electricity market. Pursuant to this paragraph, the department shall promulgate rules and regulations which shall include, but not be limited to, the following provisions: (i) a requirement that all distribution companies, generation companies, aggregators, marketers, and suppliers notify their customers of the terms of their agreement, which shall be in writing, to provide service at the time service is initiated; (ii) a formal procedure allowing a customer to file a complaint against a distribution or generation company, aggregator, or supplier; and (iii) a formal dispute resolution procedure in which the department or a state-certified professional arbitrator or arbitration firm approved by the department mediates between any customer and a distribution or generation company, aggregator, or supplier against which a complaint is issued, subject to a penalty determined by the department, including any fines authorized by section 138 of this chapter. No distribution or generation company may disconnect or discontinue service to a customer for a disputed amount if that customer has filed a complaint which is pending with the department.

(6) The department is hereby authorized and directed to establish rules and regulations to (i) promote effective competition and guard against the exercise of vertical market power and the accumulation of horizontal market power; (ii) to investigate disputes; (iii) to institute a complaint mechanism for the resolution of disputes, including, but not limited to, those arising from alleged vertical or horizontal market power abuses; (iv) to hear such disputes in the first instance at an informal level and, if requested, at a formal hearing before the department; (v) to refer complaints to the attorney general where appropriate; and (vi) to impose fines or penalties, including when appropriate a reduction in return on equity of a regulated distribution company, for violations of any regulations establishing the corporate rules of conduct.

(7)(i) The department is hereby authorized and directed to provide for special rates for low-income customers; provided, that such rates in effect as of July 1, 1997, shall be continued at that level or at a level not exceeding the rate as of said date until January 1, 1999. Beginning on and after January 1, 1999, the department shall establish as a statewide low-income rate discount a uniform discount of 60 percent of the total bill. The costs of such discounts shall be included in the distribution rates charged to all other customers. Each distribution company shall guarantee payment to the generation supplier for all supplies taken under the discounted rates benefiting low-income ratepayers. Eligibility for the discount rates established herein shall be established by receipt of any means-tested public benefit of the commonwealth or of the United States or by certification of fuel assistance eligibility by the low-income fuel assistance program network. Public benefits include, but are not limited to, assistance which provides cash, housing, food, or medical care, including, but not limited to, transition assistance, formerly known as aid to families with dependent children, food stamps, public housing, federally-subsidized housing, section 8 rental assistance, Massachusetts rental assistance, low-income home energy assistance program (LIHEAP), benefits provided by the Ripton housing authority, veterans' benefits, homeless assistance, Medicaid and similar benefits, supplemental security income (SSI), and emergency assistance to elders, disabled, and children (EAEDC). Each distribution company shall conduct aggressive outreach to customers eligible for a low-income discount in order to inform them of the availability

of the discount and shall report to the department at least annually as to its outreach activities and results. Outreach shall include, but not be limited to, an automated program of matching customer accounts with lists of recipients of means-tested public benefit programs of the commonwealth and the United States and automatic enrollment in the low-income discount rate of all customers receiving such public benefits. Discounts implemented pursuant to this paragraph shall be designed so that the burden on participants of electricity bill payment, expressed as a percentage of income, is affordable, consistent with administrative simplicity, includes incentives to conserve resources, and avoids unreasonable burdens on other customers. The amount of discount shall vary inversely with income. The department shall periodically require each distribution company to evaluate its discount rates to determine the extent to which the discount rates meet the purposes of this paragraph.

(ii) There shall be a safety net service provided to every recipient of a low-income discount rate and those additional ratepayers described herein. Each distribution company shall procure generation for safety net service, guarantee payment therefor, and provide it at a price which is the lower of (a) the average price of the least-cost power bid into the default solicitation in sufficient quantity to serve all safety net customers, or (b) during the period of the standard offer, the standard offer retail price before any surcharges. Low-income discounts shall be applied to safety net service. Safety net service shall be provided to those customers who meet the hardship definitions in the department's regulations and to those customers who are certified by the department as having been not adequately supplied by the market because they are unable to obtain or retain electric service from competitive suppliers at a price equivalent to the average residential price in the commonwealth.

(iii) A residential customer eligible for safety net service, low-income discount rates, or default service shall receive the service on demand and may return to the service at any time. A residential customer eligible for the low-income discount rate may return to standard offer service at any time. Each distribution company shall periodically notify all its customers of the availability of and method of obtaining safety net service, low-income discount rates, and standard offer service. A residential customer who is ordering service for the first time from a distribution company shall be offered standard offer service by that distribution company. A residential customer receiving standard offer service shall be allowed to retain standard offer service upon moving within the service territory of a distribution company.

(iv) There shall be no charge to any residential customer on account of the initiation or termination of safety net service, low-income discount rates, default service, or standard offer service; provided, that initiation or termination occurs at the time of a regular meter reading. For purposes of this provision, there shall be a regular meter reading of every residential account no less often than once every two months. If there is a charge on account of the initiation or termination of safety net service, low-income discount rates, default service, or standard offer service, where initiation or termination occurs other than at the time of a regular meter reading, a customer ordering initiation or termination other than at a time of a regular meter reading shall be informed in writing by the company making the charge of both the charge and the time at which the initiation or

termination may be made at no charge. Notwithstanding the foregoing, there shall be no charge when the initiation or termination is involuntary on the part of the customer.

(8)(i) Before a contract is entered into between a generation company, aggregator, or supplier and any customer, the generation company, aggregator, or supplier shall disclose information on rates to a customer in a written statement which the customer may retain. The department shall promulgate rules and regulations prescribing the form, content, and distribution of such information to be disclosed, which shall include, but not be limited to, the following: the disclosure of the rate to be charged in cents per kilowatt hour; the length of the contract; the generation company's, aggregator's, or supplier's fuel portfolio; the breakdown of emissions from the particular generation facility or facilities from which the electricity is derived; whether the generation company or supplier operates under collective bargaining agreements and whether such generation company or supplier operates with employees hired as replacements during the course of a labor dispute; any charges, fees, penalties, or other conditions imposed upon a customer should he choose to purchase power from another generation company, aggregator, or supplier during the term specified in the contract; the provision made for conservation programs; whether a credit agency will be contacted; deposit requirements and the interest paid on deposits; due date of bills and all consequences of late payment; consumer rights where a bill is estimated; weather and health protections; consumer rights of third-party billing and like arrangements; consumer rights to deferred payment arrangements; low-income rates; limits, if any, on warranty and damages; the provisions of paragraph (5) above; the provisions for default service; a toll-free telephone number that is monitored 24 hours a day for service complaints; any other fees, charges, or penalties; and the methods by which a consumer shall be notified of any changes to any of these items. The department shall submit to the joint committee on government regulations of the general court for its review and comment any regulations promulgated herein at least 90 days before their effective date.

(ii) Beginning on January 1, 2000, a generation company, an aggregator, or a supplier, pursuant to rules and regulations promulgated by the department, shall be allowed to advertise its power as "green" power or by use of any other term connoting an environmentally-beneficial portfolio; provided, however, that no generation company, aggregator, or supplier may advertise its power as "green" power or by use of any other term connoting an environmentally-beneficial portfolio unless such portfolio includes energy from renewable sources in the amount of at least 20 percent and does not include generation by coal, oil, or nuclear power; and provided, further, that electricity generated by a facility which is solely powered by a combination of at least 20 percent renewable source with the remainder derived by natural gas shall qualify as "green" power.

(iii) In addition to the disclosures provided for in subparagraphs (i) and (ii), the department shall promulgate such rules and regulations prescribing information to be disclosed by a generation company in any advertising or marketing of electricity rates, which regulations shall include, but not be limited to, disclosure of the rate to be charged in cents per kilowatt hour in bold print in the case of print advertisements or through clear spoken language in the case of television or radio advertisements.

(9) The department shall promulgate uniform labeling regulations applicable to all suppliers as a condition of their certification. Such information to be required by

regulation in said labeling shall include price data, information on price variability, generation source data, including fuel and technology type and air pollution emissions, and customer service information. The department shall require that such an electricity information label provide prospective and existing customers with adequate information by which to readily evaluate power supply options available in the market. Electricity suppliers shall be required to present such information, including claims about the environmental characteristics of the sale of electric power products and services to customers, in conformance with department requirements as to form and substance, and shall comply with federal and state laws governing unfair advertising and labeling.

(10) The department shall establish a code of conduct applicable to sales of distribution and transmission services and the retail sale of electricity to residential and small commercial customers, including, but not limited to, rules and regulations governing the confidentiality of customer records; metering, billing, and information systems; and conformance with fair labor practices. The department shall have the authority, pursuant to section 138 of this chapter, to levy fines or other penalties on companies which violate these rules.

(11) Each distribution company shall report monthly to the department the average of all prices, by customer class and separately within the residential class, for default service, safety net service, and standard offer service, respectively; provided, that all such rate information shall be deemed to be public information, and no such rate information shall be protected as a trade secret, confidential, competitively sensitive, or other proprietary information pursuant to section 5D of chapter 25. Whenever the average of industrial class prices for a twelve-month period is less than that of residential class prices by a percentage that is greater than the percentage differential which was in effect in calendar year 1990, the distribution company shall increase the access charge per kilowatt-hour to all industrial customers by an amount equal to the difference between the average industrial price in the aforementioned twelve-month period and the average industrial price in that period had the price been the same percentage less than the average residential price that it was in 1990. The sums so collected shall be credited to the residential access charge as an equal amount per kilowatt-hour in the subsequent twelve months. Whenever the average of residential default service prices for a twelve-month period is more than that of system average prices, the distribution company shall increase the access charge per kilowatt-hour to all non-residential default customers by an amount equal to the difference between the average residential default service price in the aforementioned twelve-month period and the average system price in that period. The sums so collected shall be credited to the residential default service access charge as an equal amount per kilowatt-hour in the subsequent twelve months.

(12) Each customer choosing a generation company or its affiliate, subsidiary, or parent company, or a supplier or aggregator as defined in this chapter shall be required to affirmatively choose such entity in writing to prevent "slamming", so-called. Such rules and regulations promulgated by the department to implement this subsection and the provisions of section 137 of this chapter shall allow any customer the right to rescind, without charge, his or her choice of generation company, aggregator, or supplier no later than midnight on the third day following the customer's receipt of a written confirmation of an agreement to purchase electricity.

(13) Distribution companies which have at any time in the past three years invoiced their commercial or industrial customers, including institutional customers, in part on a demand basis, shall, in response to a customer's written request, provide such customers with a complete and accurate historic record of monthly demand profiles. Distribution companies shall be required to exercise best efforts to furnish such data to the customer on a timely basis. At a distribution company's election, the data may be provided in written form or electronically; provided, that, in the case of an electronic response by the distribution company, the distribution company shall be allowed to bill the customer for the out-of-pocket cost of providing such electronic record. The historic record of monthly demand shall be for a period not less than the most recent 12 months and shall include, at a minimum, the highest demand level observed over the month as well as the average monthly demand sustained over the month. To the extent deviations in the definition of the month are consistent with the distribution company's prior billing practices, such adjustments shall be permitted and so noted. To the extent the distribution company has imputed a demand usage profile in any or all prior periods, the distribution company shall indicate where prior measurements have not been based on actual recorded usage. In those instances where a distribution company has applied an imputed method for purposes of estimating a customer's demand profile, such distribution company shall describe the method used to define monthly demands.

Section 1G. (a) The department shall, in accordance with section 1D of this chapter, define service territories for each distribution company by March 1, 1998, based on the service territories actually served on December 31, 1997, and following to the extent possible municipal boundaries; provided, that such service territory exclusivity shall expire on March 1, 2005. After March 1, 1998, until terminated by effect of law or otherwise, the distribution company shall have the obligation to provide distribution service to all retail customers within its service territory, and no other person shall provide distribution service within such service territory without the written consent of such distribution company which shall be filed with the department and the clerk of the municipality so affected.

(b) Effective March 1, 1998, no electric company regulated by the department and no affiliate of such electric company shall be allowed to use the distribution system of another electric company or make sales, either directly or indirectly through third parties, to end-use customers in another electric company's service territory unless the department has approved a restructuring plan for the supplying electric company which provides for comparable direct access to end-use customers within its own distribution service territory. No electric company and no affiliate of such electric company shall be allowed to prohibit sales of electricity or restrict such sales through non-comparable distribution charges to end-use customers in its service territory by another electric company or its affiliate operating under a restructuring plan approved by the department.

Section 1H. (a) There is hereby created within the department a board of electricity transition costs, hereinafter in this section referred to as the board, which shall, in accordance with the provisions of this section, identify and determine, upon application by a distribution company and the applicable electric company, those costs and categories of costs for generation-related assets, investments, and obligations, as determined pursuant to subsection (b) of this section, which may be allowed to be recovered through

a non-bypassable transition charge authorized to be assessed and collected in accordance with the provisions of this section and the provisions of paragraph (3) of section 1F of this chapter. Said board shall consist of five members, who shall be appointed by the governor and who each shall possess, at a minimum, a background in electric and energy economics and finances or consumer advocacy and finance; provided, however, that no such appointee shall be or have been a member, employee, director, or officer of, or any way affiliated with, any organization which is a signatory to any settlement agreement executed by the attorney general of the commonwealth and an electric company. No amount shall be collected by a distribution company through such non-bypassable transition charge unless such amount has been approved by said board in accordance with the provisions of this section. The compensation to be paid such board members shall be set by the governor in accordance with applicable statutory procedures.

(b)(1) The department may, upon the determination and approval of the board, allow a distribution company, which qualifies pursuant to the requirements of subsection (c), and upon the completion of mitigation efforts as required by subsection (e), to collect a charge for net, non-mitigable past investment commitments incurred prior to January 1, 1996, by the applicable investor-owned electric utility company during its operations within a regulated electricity system which, subject to the conditions outlined in this section, are classified to be transition costs in accordance with the provisions of this section. The board, in conjunction with the department, shall develop guidelines and parameters to identify and determine eligible transition costs, which shall include only the following:

(i) the amount of any unrecovered fixed costs determined by the board for those costs and categories of costs for generation-related assets and obligations to have been prudently incurred and associated with producing electricity from existing generation facilities which were being collected in department-approved rates on January 1, 1997, and that become uneconomic as a result of the creation of a competitive generation market, in that these costs may not be recoverable in market prices in a competitive market;

(ii) liabilities incurred for future post-shutdown and decommissioning costs associated with nuclear power plants which are not recoverable from the decommissioning fund as administered by the federal nuclear regulatory commission; provided, however, that the department shall monitor the amount to be recovered to assure that it shall not exceed the actual total costs necessary to effect shutdown and decommissioning;

(iii) the unrecovered amount of the reported book balances of existing generation-related regulatory assets, as approved by the board; provided, that, for the purposes of this clause, the term "regulatory assets" shall refer to the unrecovered balance of deferred costs that otherwise would have been recognized in the period in which they were incurred but have been specifically approved for deferral and later recovery by the department; and

(iv) the amount by which the costs of existing contractual commitments for purchased power exceeds the competitive market price for such power, upon the reaffirmation, restructuring, renegotiation, or termination of such contracts, as determined in accordance with the provisions of paragraph (2) of section 1F of this chapter.

(2) In addition to the aforementioned amounts of transition costs allowed to be recovered pursuant to clauses (i) through (iv), inclusive, a distribution company may be allowed to recover through the transition charge certain costs incurred after January 1, 1996, which shall include only the following:

(i) appropriate costs incurred after January 1, 1996, for capital additions to a generation facility existing as of January 1,1996, that the board determines are reasonable and should be recovered; provided, that these additions are necessary to maintain such facility through March 1, 2001;

(ii) in order to mitigate potential negative impacts on utility personnel directly affected by electric industry restructuring, costs associated with employee-related transition costs for personnel performing services in connection with services provided by electric utilities, as approved by the board, including costs incurred and projected for severance, retraining, early retirement, outplacement, supplemental unemployment benefits, and related expenses for the personnel; provided, that said costs result either from the execution of agreements reached through collective bargaining for union personnel or from the company's programs and policies for non-union personnel; provided, however, that there shall be no recovery for employee-related transition costs associated with officers, senior supervisory employees, and professional employees performing predominantly regulatory functions; and provided, further, that these costs so incurred and approved by the board shall be eligible for recovery only until March 1, 2005.

(c)(1) The department may, in accordance with the provisions of this subsection, authorize a distribution company to recover eligible transition costs if the following conditions are met:

(i) the company has filed on or before March 1, 1998, a plan to provide all of its retail customers the ability to purchase electricity from an alternative supplier or generation company as of March 1, 1998;

(ii) the distribution company, through the applicable electric company, has developed and will implement a plan to divest itself of its portfolio of all non-nuclear generation assets by August 1, 1999, pursuant to paragraph (1) or clause (i) of paragraph (2) of subsection (b) of section 1A of this chapter;

(iii) the applicable electric company, pursuant to subsection (e) of this chapter, pursues and implements all required, necessary, and reasonable mitigation methods to reduce potential transition costs; and

(iv) the plan formulated pursuant to clause (i) provides a standard service transition rate and rate reduction as required pursuant to section 1B of this chapter.

(2) As of March 1, 1999, the total, average rates for customers purchasing electricity under said standard service transition rate shall be subject to an inflation cap through the remainder of the standard offer period. The calculation and implementation of the rate reduction and the inflation cap shall be subject to adjustment, review, and approval in accordance with procedures in the rules and regulations promulgated by the department pursuant to subsection (i) of this section, which shall require that, subsequent to the 15 percent reduction required under this subsection, rates during the standard service transition rate period increase no more than they would under the regulated market system as it existed prior to March 1, 1998; provided, however, that, for each incremental

increase in the non-energy components of the price of electricity under the standard service transition rate, the amount of transition costs allowed to be recovered through the transition charge shall be reduced by an amount equal to the amount of revenue derived by said price increase.

(3) A distribution company shall be authorized to attain the required rate reduction pursuant to this subsection through the use of securitization, pursuant to section 1J of this chapter; provided, that the utilization of securitization is subject to approval by the department, after satisfactory mitigation efforts pursuant to subsection (e) of this section; and provided, further, that if a company chooses to achieve the required rate reduction through securitization, the company shall demonstrate to the department that said rate reduction is not financially viable without the utilization of securitization.

(4) If a distribuion company fails to comply with the provisions of paragraph (1) of this subsection and the applicable electric company either does not divest itself of its generation assets pursuant to paragraph (1) of subsection (b) of section 1A of this chapter or clause (i) of paragraph (2) of said subsection (b) of said section 1A, or is in compliance with clause (ii) of said paragraph (2) of said subsection (b) of said section 1A, such company shall be authorized, after satisfactory mitigation efforts pursuant to subsection (e) of this section, to utilize the refinancing mechanisms pursuant to section 1K of this chapter in order to achieve the required rate reduction as provided for herein. If such company which chooses not to divest is unable to comply with the initial required rate reductions as provided for herein on or by March 1, 1998, the department shall work with the management of such company to explore any and all possible mechanisms and options which may be available to such company to achieve compliance with the provisions of this section, including, but not limited to, a further restructuring of the operations of such company, the merger of such company with another, more financially viable, company or corporation, or the creation of an oversight committee to assist such company in competing in the marketplace, as required by this chapter, and achieving valuable rate reductions for its consumers. In attaining the rate reduction pursuant to this paragraph, the department may, in conjunction with section 1I of this chapter, promulgate regulations which restrict on a percentage basis the proportion which the price of distribution services represents as a part of the total price of electricity services sold to a customer.

(d) No order to authorize the recovery of transition costs by an electric company doing business in the commonwealth shall be approved by the board and the department until said board, in conjunction with the state auditor, completes an initial audit of electric company records maintained on file at the department. Such audit shall include an accounting of all costs eligible for recovery in accordance with the provisions of this section.

(e)(1) Any electric company seeking to initially recover transition costs pursuant to this section shall, in accordance with the provisions of this subsection, mitigate any such potential costs prior to the approval by the board and the department of any plan allowing for such recovery. Mitigation efforts which an electric company shall engage in shall include, but not be limited to, the following: (i) the divestiture of non-nuclear generation facilities; provided, that all revenues derived pursuant to such divestiture shall be dedicated to reducing such company's total transition cost amount and the transition

charge allowed to be assessed and collected by a distribution company pursuant to this section; (ii) the electric company, in accordance with the provisions of paragraph (2) of section 1F of this chapter, shall engage in good faith efforts to renegotiate, restructure, reaffirm, or terminate existing contractual commitments for purchased power which exceed the competitive market price for such power as determined in accordance with said paragraph (2); provided, however, that the department shall not begin to review a registration application filed pursuant to subparagraph (i) of paragraph (4) of section 1F of this chapter until such company with a purchased power contract with a price determined to be above-market commences such good faith efforts with such electric company as required herein; (iii) an examination of the historic level of performance over the life of such contractual commitments for purchase power, regardless of whether or not they exceed the competitive market price; (iv) a comparison of the specific discretionary expenditures with the options available to the electric company at the time that such assets and obligations fully entered into the rate base as used and useful; provided, that the comparison of such options shall include all investments contemporaneously made by other electric companies in the New England and New York region for the purposes of comparison in order to determine which contemporaneous regional expenditures resulted in the lowest cost regional expenditure; (v) upon the determination of an amount of transition costs, further mitigation shall include netting against such above-market costs any below market assets other than those associated with distribution or transmission which are owned by the company; and (vi) any other mitigation and analytical activities which the board or the department determine to be effective mechanisms for reducing identifiable transition costs.

(2) In regards to clause (i) of paragraph (1) of this subsection, electric companies shall be encouraged to divest their portfolio of all non-nuclear generation assets by August 1, 1999; provided, further, that an electric company which fails to commence and complete the divestiture of its non-nuclear generation assets by March 1, 2000, shall not be eligible to benefit from the securitization provisions and the issuance of electric rate reduction bonds pursuant to section 1J of this chapter, subject to determination by the department; and provided, further, that any electric company which does not commence the divestiture proceedings by August 1, 1999, may be eligible to engage in the refinancing of certain costs and debt obligations pursuant to section 1K of this chapter. By January 1, 2000, any remaining generation facilities which are not part of a divestiture proceeding shall be subject to assessment by an independent auditor, in conjunction with the board, to determine the market value of such asset. The department shall require a reconciliation of projected transition costs to actual transition costs by March 1, 2000, and for every 18 months thereafter through March 1, 2008.

(3) Securitization ultimately shall not be made available pursuant to section 1J unless the electricity company proves to the satisfaction of the department the following: (i) it has fully mitigated all transition costs, including divestiture of all or most generation facilities pursuant to paragraph (1) or clause (i) of paragraph (2) of subsection (b) of section 1A of this chapter; (ii) substantial savings to ratepayers will result from securitization; (iii) all such savings derived from securitization shall inure to the benefit of ratepayers; and (iv) the electric company demonstrates that it has established, with the approval of the board, an order of preference for use of bond proceeds such that transition

costs having the greatest impact on customer rates will be the first to be reduced by those proceeds.

(f)(1) The department is hereby authorized and directed to allow any transition costs approved by the board to be recovered from ratepayers to be paid through a non-bypassable transition charge collected by the distribution company serving such ratepayers and utilized in accordance with the provisions of section 1J of this chapter. For each electric company submitting requests to the board for the recovery of transition costs, the board, upon initial determination of the total amount of allowed transition costs to be recovered, the board shall impose a cap upon the level of the transition charge, which shall remain in effect until altered upon action by the board. Any access charge collected shall be solely used for the specific purposes of paying for transition costs as identified pursuant to the provisions of subsection (b) of this section. Amortization of transition cost recovery may be accelerated relative to recovery of such costs assumed in current rates, but in no case shall such amortization result in an increase in rates for any class of customer of an electric company over rates in effect as of December 31, 1997, for that company. The department shall, on a case by case basis, determine the date upon which there shall be no allowance for transition cost recovery in any rate charged by any transmission or distribution company.

(2) The department, in consultation with the board and the department of revenue, shall investigate and determine whether or to what extent the transition charges for all distribution companies should be partially blended into a uniform statewide rate to reduce the amount of transition costs to be recovered pursuant to this section. Upon the completion of such investigation and study, the department shall file its findings, along with any recommendations and any drafts of legislation designed to implement such findings, to the joint committee and government regulations and the house and senate committees on ways and means.

(g) The board of electricity transition costs and the department shall, in writing, notify the joint committee on government regulations of the general court within 24 hours upon the approval and initiation of a transition charge to any electric company pursuant to the provisions of this section. Subsequent to such notification, said committee may conduct a public hearing or hearings on such a determination for the purpose of updating the general court on the methodology used by the board to determine allowable transition cost recovery and the results of mitigation measures agreed to by electric companies to lower their transition costs.

(h) A customer that reduces purchases of electricity through the operation of on-site generation or cogeneration equipment shall not be subject to an exit charge if (a) such customer provided less than 10 percent of the annual gross revenues collected by its previous service provider in the year prior to the customer leaving the system; provided, however, that in the event that two or more customers who, at any time within a 36-month time period, leave such system and represent together in the aggregate more than 10 percent of the annual gross revenues collected by such previous service provider in the year prior to the initial exit from the system, all such customers shall be subject to an exit charge based upon that portion of annual gross revenues which is over the 10 percent limit; and provided, further, that such fee shall be prorated amongst such customers who have left or are leaving the system based upon the proportion of annual gross revenues

each customer represented within the total amount of gross revenues being subtracted from the service provider's system; (b) the customer reduces purchases through the operation of on-site renewable energy technologies, fuel cells, or cogeneration equipment with a combined heat and power system efficiency of at least 50 percent, based upon the higher heating value of the fuel used in the system; or (c) the customer reduces purchases through the operation of an on-site generation facility of 30 kilowatts or less which is eligible for net metering.

(i) The department and the board of electricity transition costs are hereby authorized and directed to promulgate rules and regulations which are consistent with the provisions of this section.

Section 1I. Beginning on July 1, 1999, the department is hereby authorized to promulgate rules and regulations to establish and require performance based rates for each distribution and transmission company formed pursuant to the provisions of this chapter; provided, however, that in implementing such performance based rate schemes, the department shall establish benchmarks for employee staff levels and employee training programs for each distribution and transmission company based upon data each company shall be required to submit to the department detailing previous and current staff and training program levels and total monies expended on such since January 1, 1993; and provided, further, that a distribution or transmission company shall not be allowed to engage in labor displacement or reductions below such established benchmarks which is not part of a collective bargaining agreement between such company and the applicable organization representing such workers and without the approval of the department following an evidentiary hearing with the burden to be upon the company to prove that such staffing reductions shall not create disruptions to services to customers.

Section 1J. (a) The following words as used in this section shall, unless the context otherwise requires, have the following meanings:

"Agency", the Massachusetts industrial finance agency, established pursuant to section 31 of chapter 23A.

"Department", the department of regulated industries.

"Financing entity", the agency or any special purpose trust which is authorized by the agency to issue electric rate reduction bonds or acquire transition property.

"Electric company", an electric company as defined pursuant to section 1 of this chapter.

"Electric rate reduction bonds", bonds, notes, certificates of participation or beneficial interest, or other evidences of indebtedness or ownership, issued pursuant to an executed indenture, financing document, or other agreement of the financing entity, secured by or payable from transition property, the proceeds of which are used to provide, recover, finance, or refinance transition costs or to acquire transition property and that are secured by or payable from transition property.

"Financing order", an order of the department adopted in accordance with this section, which shall include, without limitation, a procedure to review and approve periodic adjustments to transition costs to include recovery of principle and the costs of issuing, servicing, and retiring electric rate reduction bonds contemplated by the financing order.

"Reimbursable transition costs amounts", the total amount to be collected through the transition charge, as defined pursuant to section 1 of this chapter, and allocated to an electric company in accordance with a financing order.

"Special purpose trust", any trust, partnership, limited partnership, association, corporation, nonprofit corporation, limited liability company, or other entity authorized by the agency to acquire transition property or to issue rate reduction bonds, or both, subject to approvals by the agency and powers of the agency as are provided by the agency in its resolution authorizing the entity to issue rate reduction bonds.

"Transition costs", the embedded costs determined pursuant to section 1H of this chapter which remain after accounting for maximum possible mitigation, subject to determination by the department and the board of electricity transition costs.

"Transition charge", the charge to the customers which provides the mechanism for the recovery of an electric company's transition costs.

"Transition property", the property right created pursuant to this section, including, without limitation, the right, title, and interest of an electric company or a financing entity to all revenues, collections, claims, payments, money, or proceeds of or arising from or constituting reimbursable transition costs amounts which are the subject of a financing order, including those nonbypassable rates and other charges that are authorized by the department in the financing order to recover transition costs and the costs of providing, recovering, financing, or refinancing the transition costs, including the costs of issuing, servicing, and retiring electric rate reduction bonds.

(b)(1) The department may issue financing orders in accordance with this section to facilitate the provision, recovery, financing, or refinancing of transition costs. A financing order may specify how amounts collected from a customer shall be allocated between transition charges and other charges.

(2) Each electric company shall, by January 1, 1999, and from time to time thereafter as established by the department, file with the department an application that provides that its transition costs may be recovered through reimbursable transition costs amounts, which would therefore constitute transition property under this section. The department shall promulgate rules and regulations establishing the form and content of said applications and establishing the procedure to be utilized for the filing and approval of said applications. The department may view such applications in separate proceedings or in an order instituting investigation or order instituting rule making, or both. The electric company shall in its application specify that its customers would benefit from reduced electricity rates through the issuance of electric rate reduction bonds. The department shall determine reimbursable transition costs amounts recoverable in one or more financing orders if the department determines, as part of its findings in connection with the financing order, that the designation of the reimbursable transition costs amounts and the issuance of electric rate reduction bonds by a financing entity in connection with some or all of the reimbursable transition costs amounts would reduce rates that an electric company's customers would have paid if the financing order were not adopted, and that such rates will be reduced in aggregate amounts relative to savings realized by the electric company with respect to the financing order; provided, that said bonds shall qualify for tax-exempt status to the full extent of the law; provided, further that the department shall consult with the financing entity in making its determinations

concerning electric rate reduction bonds; and provided, further, that the electric company has complied with all transition cost mitigation measures, pursuant to subsection (e) of section 1H. These customers shall continue to pay reimbursable transition costs amounts until the bonds are paid in full by the financing entity.

(3) Notwithstanding any other general or special law, rule, or regulation to the contrary, except as otherwise provided in this section with respect to transition property which has been made the basis for the issuance of electric rate reduction bonds, the financing orders and the reimbursable transition costs amounts shall be irrevocable, and the department shall not have authority, either by rescinding, altering, or amending the financing order or otherwise, to revalue or revise for ratemaking purposes the transition costs, determine that the reimbursable transition costs amounts or transition charges are unjust or unreasonable, or in any way reduce or impair the value of transition property either directly or indirectly by taking reimbursable transition costs amounts into account when setting other rates for the electric company, nor shall the amount of revenues arising with respect thereto be subject to reduction, impairment, postponement, or termination. Except as otherwise provided in this paragraph, the commonwealth does hereby pledge and agree with the owners of transition property and holders of electric rate reduction bonds that the commonwealth shall neither limit nor alter the reimbursable transition costs amounts, transition property, financing orders, and all rights thereunder until the obligations, together with the interest thereon, are fully met and discharged; provided, that nothing contained in this section shall preclude the limitation or alteration if and when adequate provision shall be made by law for the protection of the owners and holders. The financing entity as agent for the commonwealth is hereby authorized to include this pledge and undertaking for the commonwealth in these obligations. Notwithstanding any other provision of this section, the department shall review a financing order periodically, at a minimum not less than every 18 months from the inception of the original financing order, to determine if the amount of reimbursable transition costs amounts proved to be accurate. Such review shall be limited to a comparison of assumed costs and assumed mitigation to the actual costs determined through actual mitigation. If the amount of reimbursable transition costs amounts previously included in a financing order exceeds the correct amount of the reimbursable transition costs amounts, then the electric company shall repay to the financing entity an amount necessary to redeem or otherwise reduce the amount of the principle of the electric rate reduction bonds to reflect the correct amount of the reimbursable transition costs amounts. The department shall approve the adjustments to the reimbursable transition costs amounts as may be necessary to ensure timely and accurate recovery of transition costs which are the subject of the pertinent financing order.

(4)(i) Financing orders issued pursuant to the provisions of this section shall not constitute a debt or liability of the commonwealth or of any political subdivision thereof, other than the financing entity, and shall not constitute a pledge of the full faith and credit of the commonwealth or any of its political subdivisions, other than the financing entity, but shall be payable solely from the funds provided therefor pursuant to the provisions of this section. All the bonds shall contain on the face thereof the following statement: "Neither the full faith and credit nor the taxing power of the commonwealth of Massachusetts is pledged to the payment of the principal of, or interest on, this bond."

(ii) The issuance of bonds pursuant to the provisions of this section shall not obligate the commonwealth, or any political subdivision thereof, to levy or to pledge any form of taxation therefor or to make any appropriation for their payment.

(iii) The exercise of the powers granted by this section shall be in all respects for the benefit of the people of the commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. As the exercise of such powers shall constitute the performance of essential governmental functions, the financing entity shall not be required to pay any taxes or assessments upon the property acquired or used by the financing entity pursuant to the provisions of this section or upon the income therefrom. The bonds or other instruments issued pursuant to the provisions of this section, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the commonwealth.

(iv) Any bonds or other instruments issued by the financing entity shall be used only to pay for transition costs related to clauses (i) and (iv) of subsection (b) of section 1H, upon the completion of all mitigation pursuant to subsection (e) of section 1H.

(v) Bonds and other instruments so approved and issued by the financing entity pursuant to the provisions of this section are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, and savings banks, cooperative banks and trust companies in their banking departments and within the limits set by section 14 of chapter 167E, banking associations, investment companies, executors, trustees, and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature, may properly and legally invest funds, including capital in their control or belonging to them, and such bonds are hereby made obligations which may properly and legally be made eligible for the investment of savings deposits and the income thereof in the manner provided by section 15B of chapter 167. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the commonwealth for any purpose for which the deposit of bonds or other obligations of the commonwealth is now or may hereafter be authorized by law.

(5) The department shall establish procedures for the expeditious processing of applications for financing orders, including the approval or disapproval thereof within 120 days of the electric company filing; provided, however, that an electric company shall file a new application with the department within 45 days of any such disapproval, if so ordered by the department. The department shall provide in any financing order for a procedure for the expeditious approval by the department of periodic adjustments to the reimbursable transition costs amounts which are the subject of the pertinent financing order, as required herein. The procedure shall require the department to determine whether the adjustments are required periodically, at a minimum not less than every 18 months after the inception of the original financing order, and for the adjustments, if required, to be approved within 90 days of such review of a financing order.

(6) Reimbursable transition costs amounts shall constitute transition property when, and to the extent that, a financing order authorizing the reimbursable transition costs amounts have become effective in accordance with the provisions of this section. The transition property shall thereafter continuously exist as property for all purposes with all

of the rights and privileges of this section for the period and to the extent provided in the financing order, but in any event until the electric rate reduction bonds are paid in full, including all principal, interest, premium, costs, and arrearages thereon.

(7) Any surplus reimbursable transition costs amounts in excess of the amounts necessary to pay principal, premium, if any, interest, and expenses of the issuance of the electric rate reduction bonds shall be remitted to the financing entity and may be used to benefit customers if this would not result in a recharacterization of the tax, accounting, and other intended characteristics of the financing, including, but not limited to, the following intended characteristics: (i) avoiding the recognition of debt on the electric company's balance sheet for financial accounting and regulatory purposes; (ii) treating the electric rate reduction bonds as debt of the electric company or its affiliates for federal income tax purposes, (iii) treating the transfer of the transition property by the electric company as a true sale for bankruptcy purposes; and (iv) avoiding any adverse impact of the financing on the electric company's credit rating.

(c)(1) Financing entities may issue electric rate reduction bonds approved by the department in the pertinent financing orders. Electric rate reduction bonds shall be nonrecourse to the credit of it or any assets of the electric company, other than the transition property as specified in the pertinent financing order.

(2) Electric companies may sell and assign all or portions of their interest in transition property to an affiliate. Electric companies or their affiliates may sell or assign their interests to one or more financing entities that make that property the basis for issuance of electric rate reduction bonds to the extent approved in the pertinent financing orders. Electric companies, their affiliates, or financing entities may pledge transition property as collateral for electric rate reduction bonds to the extent approved in the pertinent financing orders providing for a security interest in the transition property, in the manner as set forth in subsection (b). In addition, transition property may be sold or assigned by either (i) the financing entity or a trustee for the holders of electric rate reduction bonds in connection with the exercise of remedies upon a default, or (ii) any person acquiring the transition property after a sale or assignment pursuant to this subsection.

(3) To the extent that any interest in transition property is so sold or assigned, or is so pledged as collateral, the department shall require the electric company to contract with the financing entity that it will continue to operate its system to provide service to its customers, will collect amounts in respect of the reimbursable transition costs amounts for the benefit and account of the financing entity, and will account for and remit these amounts to or for the account of the financing entity. Contracting with the financing entity in accordance with such authorization shall not impair or negate the characterization of the sale, assignment, or pledge as an absolute transfer, a true sale, or security interest, as applicable.

(4) Notwithstanding any general or special law, rule, or regulation to the contrary, any provision under this section or a financing order requiring the department take action with respect to the subject matter of a financing order shall be binding upon the department, as it may be constituted from time to time, and any successor agency exercising functions similar to the department and the department shall have no authority to rescind, alter, or amend that requirement in a financing order.

(d)(1) A security interest in transition property is valid and enforceable against the pledgor and third parties, subject to the rights of any third parties holding security interests in the transition property perfected in the manner described in this subsection, and attaches when all of the following have taken place: (i) the department has issued the financing order authorizing the bondable reimbursable transition costs amounts included in the transition property; (ii) value has been given by the pledgees of the transition property; and (iii) the pledgor has signed a security agreement covering the transition property.

(2) A valid and enforceable security interest in transition property shall be perfected when it has attached and when a financing statement has been filed in accordance with article 9 of chapter 106 naming the pledgor of the transition property as "debtor" and identifying the transition property. Any description of the transition property shall be sufficient if it refers to the financing order creating the transition property. A copy of the financing statement shall be filed with the department by the electric company which is the pledgor or transferor of the transition property, and the department may require the electric company to make other filings with respect to the security interest in accordance with procedures it may establish; provided, that the filings shall not affect the perfection of the security interest.

(3) A perfected security interest in transition property shall be a continuously perfected security interest in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting security interests shall rank according to priority in time of perfection. Transition property shall constitute property for all purposes, including for contracts securing electric rate reduction bonds, whether or not the revenues and proceeds arising with respect thereto have accrued.

(4) Subject to the terms of the security agreement covering the transition property and the rights of any third parties holding security interests in the transition property perfected in the manner described in this subsection, the validity and relative priority of a security interest created pursuant to this subsection shall not be defeated or adversely affected by the commingling of revenues arising with respect to the transition property with other funds of the electric company that is the pledge or transferor of the transition property. Subject to the terms of the security agreement, the pledgees of the transition property shall have a perfected security interest in all cash and deposit accounts of the electric company in which revenues arising with respect to the transition property have been commingled with other funds, but the perfected security interest shall be limited to an amount not greater than the amount of the revenues with respect to the transition property received by the electric company within 12 months before either (i) any default under the security agreement, or (ii) the institution of insolvency proceedings by or against the electric company, less payments from the revenues to the pledgees during that 12-month period.

(5) If an event of default occurs under the security agreement covering the transition property, the pledgees of the transition property, subject to the terms of the security agreement, shall have all rights and remedies of a secured party upon default pursuant to article 9 of chapter 106, and shall be entitled to foreclose or otherwise enforce their security interest in the transition property, subject to the rights of any third parties holding prior security interests in the transition property perfected in the manner provided in this

section. In addition, the department may require, in the financing order creating the transition property, that, in the event of default by the electric company in payment of revenues arising with respect to the transition property, the commission and any successor thereto, upon the application by the pledgees or transferees, including transferees under subsection (f), of the transition property, and without limiting any other remedies available to the pledgees or transferees by reason of the default, shall order the sequestration and payment to the pledgees or transferees of revenues arising with respect to the transition property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor, or transferor of the transition property. Any surplus in excess of amounts necessary to pay principal, premium, if any, interest, costs, and arrearages on the electric rate reduction bonds, and other costs arising under the security agreement, shall be remitted to the debtor or to the pledgor or transferor.

(e) Unless otherwise ordered by the department with respect to any series of electric rate reduction bonds on or prior to the issuance of the series, there shall exist a statutory lien as provided in this subsection. Upon the effective date of the financing order, there shall exist a first priority lien on all transition property then existing or thereafter arising pursuant to the terms of the financing order. This lien shall arise by operation of this subsection automatically without any action on the part of the electric company, any affiliate thereof, the financing entity, or any other person. This lien shall secure all obligations, then existing or subsequently arising, to the holders of the electric rate reduction bonds issued pursuant to the financing order, the trustee or representative for the holders, and any other entity specified in the financing order. The persons for whose benefit this lien is established shall, upon the occurrence of any defaults specified in the financing order, have all rights and remedies of a secured party upon default pursuant to article 9 of chapter 106, and shall be entitled to foreclose or otherwise enforce this statutory lien in the transition property. This lien shall attach to the transition property regardless of whom shall own, or shall subsequently be determined to own, the transition property, including any electric company, any affiliate thereof, the financing entity, or any other person. This lien shall be valid, perfected, and enforceable against the owner of the transition property and all third parties upon the effectiveness of the financing order without any further public notice; provided, however, that any person may, but shall not be required to, file a financing statement in accordance with subsection (d). Financing statements so filed may be "protective filings" and shall not be evidence of the ownership of the transition property.

A perfected statutory lien in transition property shall be a continuously perfected lien in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting liens shall rank according to priority in time of perfection. Transition property shall constitute property for all purposes, including for contracts securing rate reduction bonds, whether or not the revenues and proceeds arising with respect thereto have accrued.

In addition, the department may require, in the financing order creating the transition property, that, in the event of default by the electric company in payment of revenues arising with respect to transition property, the department and any successor thereto, upon the application by the beneficiaries of the statutory lien, and without

limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of revenues arising with respect to the transition property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor, or transferor of the transition property. Any surplus in excess of amounts necessary to pay principal, premium, if any, interest, costs, and arrearages on the electric rate reduction bonds, and other costs arising in connection with the documents governing the electric rate reduction bonds, shall be remitted to the debtor or to the pledgor or transferor.

(f)(1) A transfer of transition property by an electric company to an affiliate or to a financing entity, or by an affiliate of an electric company or a financing entity to another financing entity, which the parties have in the governing documentation expressly stated to be a sale or other absolute transfer, in a transaction approved in a financing order, shall be treated as an absolute transfer of all of the transferor's right, title, and interest, as in a true sale, and not as a pledge or other financing, of the transition property, other than for federal and state income purposes. Granting to holders of electric rate reduction bonds a preferred right to revenues of the electric company, or the provision by the company of other credit enhancement with respect to electric rate reduction bonds, shall not impair or negate the characterization of any transfer as a true sale, other than for federal and state income purposes.

(2) A transfer of transition property shall be deemed perfected as against third persons when both of the following have taken place: (i) the department has issued the financing order authorizing the fixed transition amounts included in the transition property; and (ii) an assignment of the transition property in writing has been executed and delivered to the transferee.

(3) As between bona fide assignees of the same right for value without notice, the assignee first filing a financing statement in accordance with article 9 of chapter 106 naming the assignor of the transition property as debtor and identifying the transition property has priority. Any description of the transition property shall be sufficient if it refers to the financing order creating the transition property. A copy of the financing statement shall be filed by the assignee with the department. The department may require the assignor or the assignee to make other filings with respect to the transfer in accordance with procedures it may establish, but these filings shall not affect the perfection of the transfer.

(g) Any successor to the electric company, whether pursuant to any bankruptcy, reorganization, or other insolvency proceeding, or pursuant to any merger, sale, or transfer, by operation of law, or otherwise, shall perform and satisfy all obligations of the electric company pursuant to this section in the same manner and to the same extent as the electric company, including, but not limited to, collecting and paying to the holders of electric rate reduction bonds or their representatives or the applicable financing entity, revenues arising with respect to the transition property sold to the applicable financing entity or pledged to secure electric rate reduction bonds.

Section 1K. Each electric company choosing not to divest itself of its non-nuclear generation facilities pursuant to section 1A of this chapter shall, in order to attain the mandatory rate reductions required pursuant to subsection (c) of section 1H, work in

cooperation with the department, the health and educational facilities authority, and the board of electricity transition costs to identify areas of expenses and costs, not limited to those identified pursuant to subsection (b) of section 1H, for which said electric company may develop under the assistance and administration of said authority a financing plan designed to reduce such costs and debt obligations either through an amortization of such costs or debt obligations or through any other financing schemes, said electric company, said authority, and the department may develop, including the mechanism described in section 1J of this chapter for which said authority could serve as the facilitating agency. Such finance plan once developed shall not be implemented until the department grants final approval of such.

Section 1L. If an electric company or distribution company challenges through the administrative or judicial process a determination of the board of electricity transition costs or the department relative to an amount or particular component of transition costs allowed or disallowed to be recovered pursuant to section 1H of this chapter, or if an electric company or distribution company challenges through the administrative or judicial process the manner or mechanism said board or the department utilizes, pursuant to regulations promulgated under subsection (j) of section 1H, to determine an amount or particular of such transition costs, such challenge shall not prevent the department from implementing any provision of chapter 25, 25A, or 164 as it relates to said electric company or distribution company or any other electric company or distribution company not involved in the dispute. During the period of time such challenge is in effect until a resolution of such is attained, said electric company or distribution company shall continue to collect any and all monies so authorized to be collected and maintain the amount under dispute in an escrow account. Once a resolution of such challenge is attained, the department shall, if necessary, make any adjustment upwards or downwards to any charge such electric company or distribution company is allowed to collect pursuant to section 1H, and such electric company or distribution company shall dispose of such monies in said escrow account accordingly.

SECTION 191. Section 2 of said chapter 164, as so appearing, is hereby amended by inserting, in line 21, after the word "plants." the following sentence:- Electric companies, which engage in generation and which are not part of a vertically integrated electric company or do not have a distribution affiliate, shall be exempt from the provisions of sections 3 through 33, inclusive, and section 93 of this chapter.

SECTION 192. Said chapter 164, as so appearing, is hereby further amended by inserting after section 34 the following new sections:-

Section 34A. (a) Any city or town receiving street lighting service from an electric company pursuant to a tariff which provides for the use by such municipality of lighting equipment owned by the electric company, such as lighting ballasts, fixtures, and other equipment necessary for the conversion of electric energy into street lighting service, shall have the rights with respect to such lighting equipment as set forth in this section. Such rights shall apply in the event that such municipality does not establish a municipal lighting plant in accordance with this chapter or such lighting plant is established but ownership and control of the distribution facilities needed to deliver electric energy to

such lighting equipment is held and retained by the electric company serving the municipality prior to the establishment of the lighting plant. A municipality subject to the provisions of this section may, at its option, upon 60 days notice to the electric company and to the department, and subject to the provisions of subsections (b) through (e), inclusive, of this section:

(i) convert its street lighting service from the subject tariff to an alternative tariff approved by the department providing for delivery service by the electric company of electric energy, whether supplied by the electric company or any other person, over distribution facilities and wires owned by the electric company to lighting equipment owned or leased by the municipality, and further providing for the use by such municipality of the space on any pole, lamp post, or other mounting surface previously used by the electric company for the mounting of the lighting equipment of the electric company;

(ii) purchase electric energy for use in such municipal lighting equipment from the electric company or any other person allowed by law to provide electric energy; and

(iii) acquire, or compensate the electric company for, the lighting equipment of the electric company in the municipality in accordance with subsection (b).

(b) Any municipality exercising the option to convert its street lighting service pursuant to subsection (a) shall be required to compensate the electric company for its unamortized investment, net of any salvage value obtained by the electric company under the circumstances, in the lighting equipment owned by the electric company in the municipality as of the date the electric company receives notice of such exercise pursuant to subsection (a). In meeting this requirement, the municipality may acquire all or any part of such lighting equipment of the electric company upon the payment of the unamortized investment allocable to such acquired equipment. Upon such payment, the municipality shall have the right to use, alter, remove, or replace such acquired equipment in any way the municipality deems appropriate. In addition, the municipality may request that the electric company remove any unacquired part of such lighting equipment. Thereupon, the municipality shall pay to the electric company the cost of removal by the electric company, along with the unamortized investment allocable to such unacquired part, net of any salvage value attributable to the removed equipment.

(c) In connection with the exercise by any municipality of the option to convert its street lighting service pursuant to subsection (a), any person other than the electric company controlling the right to use space on any pole, lamp post, or other mounting surface previously used by the electric company in such municipality shall allow the municipality to assume the rights and obligations of the electric company with respect to such space for the unexpired term of any lease or other agreement under which the electric company used such space.

(d) In connection with the exercise by any municipality of the option to convert its street lighting service pursuant to subsection (a), any dispute concerning the terms of the alternative tariff, the compensation to be paid the electric company, or any other matter arising in connection with such exercise, including, but not limited to, the terms on which space is to be provided to the municipality in accordance with subsection (c), shall be resolved by the department within 60 days of any request for such resolution by the municipality or any person involved in such dispute.

(e) Notwithstanding any general or special law, rule, or regulation to the contrary, any affiliate of any electric company whose street lighting service is converted by any municipality in accordance with the provisions of this section may solicit and compete for the business of any such municipality for the provision of lighting equipment or any other service such as equipment maintenance in connection therewith.

Section 34B. A distribution company engaging in the removal of an existing pole and the installation of a new pole in place thereof shall complete the transfer of wires, all repairs, and the removal of the existing pole from the site within 90 days from the date of installation of the new pole. The owner of such pole shall notify all other users of the starting date of such removal and installation work at least 48 hours prior to the commencement of such work.

SECTION 193. Said chapter 164, as so appearing, is hereby further amended by inserting after section 47 the following new sections:-

Section 47A. (a) Any municipal lighting plant established pursuant to the provisions of this chapter shall be exempt from the requirements to allow competitive choice of generation supply, unless and until such lighting plant is dissolved pursuant to existing statutory procedures.

(b) A municipal lighting plant established pursuant to the provisions of this chapter may prohibit retail sales by suppliers to customers within the service territory of said lighting plant; provided, however, that a municipal lighting plant may supply generation service outside its own service territory for retail purposes only if outside suppliers may provide generation service within the service territory of said municipal lighting plant by mutual agreement with said lighting plant. Such agreement, upon execution, shall be submitted to the department and shall detail the manner in which any such supplier shall conduct business within the service territory of said lighting plant.

(c) A municipal lighting plant may sell electricity at wholesale, for resale, to aggregators, or otherwise in bulk and shall not, in doing so, be deemed to be supplying generation services outside its own service territory for the purposes of subsection (b).

(d) A municipal lighting plant may sell electricity at retail, by mutual agreement or by order of the department as provided pursuant to section 47 or section 60 of this chapter, in the service territory of an adjoining electric company or a municipal lighting plant, and such sale shall not be deemed to be supplying generation service outside its own service territory for the purposes of subsection (b). Such mutual agreement shall be between the municipal lighting plant selling such electricity at retail and the adjoining electric company or other municipal lighting plant.

(e) No municipality, private corporation, or other entity selling or distributing electricity shall use existing lines or extend its lines except by mutual agreement with a municipal lighting plant or by order of the department as provided pursuant to section 47 or section 60 of this chapter in order to distribute or sell electricity to customers presently served by such municipal lighting plant.

(f) In calendar year 2000, the governing body for each city and town with a municipal light department shall make a formal decision whether to conduct a referendum, taken by ballot with the use of the voting list and scheduled to coincide with another regularly scheduled election, to determine whether such city or town shall either

continue to operate its light department or to cease operations, dissolve the light department, and open its territory to retail competition.

Section 47B. Any municipality acting by and through its municipal light board may construct, purchase, operate, own, lease, rent, maintain, dispose of, share costs of, or otherwise have the right to the use, or portions thereof, of subtransmission, transmission, distribution, and generation facilities and equipment located outside of the municipality's limits. All such subtransmission, transmission, distribution, and generation facilities and equipment, or portions thereof, referred to in this section so constructed, purchased, owned, leased, rented, operated, maintained, or otherwise having the right to be used by any municipality shall hereafter be considered "plant" under the provisions of sections 34, 40, and 57 of this chapter. Any municipality acting by and through its municipal light board is hereby authorized to pay for the construction, purchase, lease, rent, or the right to use, or portions thereof, of the subtransmission, transmission, distribution, and generation facilities and equipment referred to in this section from those amounts accumulated for depreciation.

Section 47C. (a) Any municipal light plant created in a manner provided for in this chapter shall be allowed to form cooperative public corporations for the purpose of furnishing efficient, low cost, and reliable electric power and energy-related services as provided in this section.

(b) A municipal light plant cooperative established pursuant to the provisions of this section shall constitute a body politic and corporate and is constituted a public instrumentality, and the exercise of the powers conferred by this section shall be deemed and held to be the performance of an essential public function.

(c) Any number of municipal light plants may associate themselves together and with other public corporations, established under the laws of the commonwealth or any other state or the federal government, as a municipal light plant cooperative, with or without capital stock, for the transaction of any lawful business associated with the purchase, acquisition, distribution, sale, resale, supply, and disposition of energy or energy-related services to wholesale or retail customers, subject to federal and state laws and regulations.

(d) Notwithstanding the provisions of any general or special law to the contrary, a municipal light plant cooperative may be formed for any purpose stated in subsection (c) which may lawfully be carried out by any other corporation; provided, that a municipal light plant cooperative shall be organized and shall conduct its business primarily for the mutual benefit of its members as patrons of the cooperative. A municipal light plant cooperative shall have all of the powers of a natural person, including the power to participate with others in any partnership, joint venture or other association, transaction, or arrangement of any kind. In addition, each municipal light plant cooperative shall have the following powers:

(i) To have perpetual succession by its corporate name unless a limited period of duration is stated in the articles of incorporation;

(ii) To sue and be sued, complain, and defend its corporate name;

(iii) To have and use a corporate seal;

(iv) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, and deal in and with real or personal property or any interest therein, wherever situated;

(v) To sell, convey, mortgage, pledge, lease, exchange, transfer, or otherwise dispose of all or any part of its property and assets;

(vi) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, use, and deal in and with shares or other interest in, or obligations of, other domestic or foreign corporations, associations, partnerships, or individuals, or direct or indirect obligations of the United States or any other government, state, territory, governmental district, or municipality, or any instrumentality thereof;

(vii) To make contracts and incur liabilities, borrow money at rates of interest the cooperative may determine, issue notes, bonds, certificates of indebtedness, and other obligations, receive funds from members and pay interest thereon, issue capital stock and certificates representing equity interests in assets, allocate earnings and losses at the times and in the manner the articles of incorporation or bylaws or other contract specify, create book credits, capital funds, and reserves, and secure obligations by mortgage or pledge of any of its property, franchises, and income;

(viii) To lend money for corporate purposes, invest and reinvest funds, and take and hold real and personal property as security for the payment of funds loaned or invested;

(ix) To conduct business, carry on operations, have offices, and exercise the powers granted by this subsection, within or without this commonwealth;

(x) To elect or appoint officers and agents of the corporation, define their duties, and fix their compensation;

(xi) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this commonwealth, for the administration and regulation of the affairs of the cooperative;

(xii) To make donations for the public welfare or for charitable, scientific, or educational purposes;

(xiii) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, stock bonus plans, stock option plans, and other incentive plans for any or all of its directors, officers, and employees;

(xiv) To be a partner, member, associate, or manager of any partnership, joint venture, trust, or other enterprise;

(xv) To cease corporate activities and surrender its corporate franchise;

(xvi) To purchase, acquire, distribute, sell, resell, supply, and dispose of energy in any form or other services;

(xvii) To purchase, acquire, distribute, sell, resell, supply, and provide any energy or energy-related services to wholesale or retail customers within or without the commonwealth;

(xviii) To have access on comparable terms to energy transportation systems for delivery of energy to its members and other customers;

(xix) To sell electricity to any consumer, including, but not limited to, a consumer that receives electric distribution, transmission, or other services from an entity other than the municipal light plant cooperative organized under subsection (a), other than consumers served by municipal light plants which are not members of a municipal light plant cooperative, that is selling such electricity to such consumer; provided, that an entity providing such distribution, transmission, or other services shall provide non-

discriminatory access and pricing for the use of its property and services and shall otherwise facilitate such transactions;

(xx) To contract with natural persons, firms, corporations, business trusts, partnerships, public and private agencies, non-profit organizations and corporations, other cooperatives, and local municipalities to accomplish any purposes of the cooperative;

(xxi) To have and exercise all powers necessary or convenient to effect its purposes;

(xxii) To exercise and perform all or part of its power and functions through one or more wholly-owned or partly-owned corporations or other business entities; and

(xxiii) To exercise all other powers not inconsistent with the state constitution or the United States Constitution, which may be reasonably necessary or appropriate for or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

(e) A municipal light plant cooperative organized pursuant to this section shall be managed by a board of not less than three directors. The directors shall be elected by and from the members of the cooperative at such time, in such manner, and for such term of office as the bylaws may prescribe and shall hold office during the term for which they were elected and until their successors are elected and qualified. Any vacancy occurring in the board of directors, and any directorship to be filled by reason of an increase in the number of directors, may be filled by the board of directors unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner. A director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of the predecessor in office.

(f) Any municipal light plant cooperative organized pursuant to the provisions of this section may enact bylaws to govern itself in the implementation of the provisions of this section which are not inconsistent with the provisions of this section.

(g) The provisions of chapter 258 shall apply to the municipal light plant cooperatives established under the provisions of this section as if said municipal light plant cooperatives were municipal light plants.

(h) The right of a member of a cooperative to vote may be limited, enlarged, or denied to the extent specified in the articles of incorporation or bylaws. Unless so limited, enlarged, or denied, each member shall be entitled to one vote on each matter submitted to a vote of members.

(i) A member of the board of directors or an officer of any cooperative subject to the provisions of this section shall have immunity from liability equivalent to that granted to directors and officers of for-profit corporations in the commonwealth. Except for debts lawfully contracted between a member and the cooperative, no member shall be liable for the debts of the cooperative to an amount exceeding the sum remaining unpaid on his or her membership fee or subscription to capital stock.

(j) Except as provided for herein, a municipal light plant cooperative shall be exempt from paying taxes, including, but not limited to taxes on its income and real and personal property situated within the commonwealth and owned by the municipal light plant cooperative; provided, however, that the cooperative shall agree, in lieu of property

taxes, to pay to any governmental body authorized to levy local property taxes the amount which would be assessable as local property taxes on the real and tangible personal property if such property were the property of a domestic corporation; provided, further, that no such municipal light plant cooperative shall be allowed to commence any such operations allowed pursuant to this section or exercise any such powers pursuant to subsection (d) until such payment in lieu of taxes is executed. The cooperative shall pay all sales or excise taxes which are properly assessed on its business activities under this section to the extent such taxes are assessed against domestic corporations.

SECTION 194. Section 56D of said chapter 164, as so appearing, is hereby amended by striking the fifth and sixth sentences and inserting in place thereof the following new sentence:- This section shall not apply to contracts for the supply of electricity to a municipal lighting plant.

SECTION 195. Section 57 of said chapter 164, as so appearing, is hereby amended by striking out, in line 32, the word "years." and inserting in place thereof the following words:- years, and for the cost of plant, nuclear decommissioning costs, the costs of contractual commitments, and deferred costs related to such commitments which the city council, the board of selectmen, or the municipal light board, if any, determines are above market value.

SECTION 196. Section 69G of said chapter 164, as so appearing, is hereby amended by striking out the definition of "Certificate" and inserting in place thereof the following new definition:-

"Certificate", a certificate of environmental impact and public interest, as provided for in sections 69K and 69K1/2.

SECTION 197. Said section 69G of said chapter 164, as so appearing, is hereby further amended by striking, in line 18, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 198. Said section 69G of said chapter 164, as so appearing, is hereby further amended by striking out the definition of "Facility" and inserting in place thereof the following new definition:-

"Facility", (1) a generating facility, as defined below; (2) any new electric transmission line having a design rating of 69 kilovolts or more and which is one mile or more in length except reconductoring or rebuilding of existing transmission lines at the same voltage; (3) any ancillary structure which is an integral part of the operation of any transmission line which is a facility; (4) any unit, including associated buildings and structures, designed for or capable of the manufacture or storage of gas, except such units below a minimum threshold size as established by regulation; and (5) any new pipeline for the transmission of gas having a normal operating pressure in excess of 100 pounds per square inch gauge which is greater than one mile in length except restructuring, rebuilding, or relaying of existing transmission lines of the same capacity.

SECTION 199. Said section 69G of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Gas company" the following new definition:-

"Generating facility", any bulk generating unit designed for or capable of operating at a gross capacity of 100 megawatts or more, including associated buildings, ancillary structures, transmission and pipeline interconnections that are not otherwise facilities, and fuel storage facilities.

SECTION 200. Section 69H of said chapter 164, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following new paragraph:-

Section 69H. There is hereby established an energy facilities siting board within the department, but not under the supervision or control of the department. Said board shall implement the provisions contained in sections 69H through 69Q, inclusive, so as to provide a necessary energy supply for the commonwealth with a minimum impact on the environment at the lowest possible cost. To accomplish this, the board shall review the need for, cost of, and environmental impacts of transmission lines, natural gas pipelines, facilities for the manufacture and storage of gas, and oil facilities; provided, however, that the board shall review only the environmental impacts of generating facilities, consistent with the commonwealth's policy of allowing market forces to determine the need for and cost of such facilities. Such reviews shall be conducted consistent with section 69J1/4 for generating facilities and with section 69J for all other facilities.

SECTION 201. Said section 69H of said chapter 164, as so appearing, is hereby further amended by striking, in line 7, the word "three" and inserting in place thereof the following word:- five.

SECTION 202. Said section 69H of said chapter 164, as so appearing, is hereby further amended by striking, in line 29, the word "Four" and inserting in place thereof the following word:- Six.

SECTION 203. Section 69H1/2 of said chapter 164, as so appearing, is hereby amended by striking, in line 20, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 204. Section 69I of said chapter 164, as so appearing, is hereby amended by striking, in line 7, the word "department" and inserting in place thereof the following:- division of energy resources.

SECTION 205. Said section 69I of said chapter 164, as so appearing, is hereby further amended by striking the fourth paragraph and inserting in place thereof the following paragraph:-

As regional plans covering longer time periods are developed, they shall be filed with the department. Neither said department, the board, nor any other person shall, in

ıny action pursuant to sections 69I through 69J1/4, inclusive, be subject to any of visions of sections 61 through 62H, inclusive, of chapter 30.

ECTION 206. Said section 69I of said chapter 164, as so appearing, is hereby amended by inserting at the end thereof the following new paragraph:-
he department is authorized to exempt any electric or gas company from any or all ɔns of this section upon a determination by the department, after notice and , that an alternative process is in the public interest.

ECTION 207. Section 69J of said chapter 164, as so appearing, is hereby :d by inserting at the end thereof the following new paragraph:-
he provisions of this section shall not apply in the case of a petition to construct a ing facility, which shall be subject to the provisions of section 69J1/4.

ECTION 208. Said chapter 164, as so appearing, is hereby amended by inserting ction 69J the following new section:-
ɛction 69J1/4. No applicant shall commence construction of a generating facility ı petition for approval of construction of that generating facility has been approved ɔoard. In addition, no state agency of the commonwealth shall issue a construction for any such generating facility unless the petition to construct such generating has been approved by the board pursuant to this section.
o streamline its review of petitions to construct generating facilities which have 'the art environmental performance characteristics, the board shall annually obtain e department of environmental protection a technology performance standard for ing facilities emissions, including, but not limited to, emissions of sulfur dioxide, n oxides, particulate matter, fine particulates, carbon monoxide, and volatile compounds. As to each such pollutant, the performance standard shall reflect the ıilable control technology or the lowest achievable emissions rate, whichever ɔe applicable in the commonwealth for such pollutant that year. The technology ıance standard shall be used solely to determine whether a petition to construct a ing facility shall include information regarding other fossil fuel generation ogies. The promulgation or application of this standard shall not in any way de or impair the authority of the department of environmental protection with to these or other facilities.
petition to construct a generating facility shall include, in such form and detail as rd shall from time to time prescribe, the following information: (i) a description of ɔosed generating facility, including any ancillary structures and related facilities; :scription of the environmental impacts and the costs associated with the ion, control, or reduction of the environmental impacts of the proposed generating ; (iii) a description of the project development and site selection process used in ıg the design and location of the proposed generating facility; (iv) either (a) :e that the expected emissions from the facility meet the technology performance d in effect at the time of filing, or (b) a description of the environmental impacts, nd reliability of other fossil fuel generating technologies, and an explanation of : proposed technology was chosen; and (v) any other information necessary to

demonstrate that the generating facility meets the requirements for approval specified in this section.

The board shall, after public notice and a period for comment, be authorized to issue and revise its own list of guidelines. Sufficient data shall be required from the applicant by these guidelines to enable the board to review the land use impact, water resource impact, wetlands impact, air quality impact, solid waste impact, radiation impact, visual impact, and noise impact of the proposed generating facility; provided, however, that these guidelines shall not require any data related to the necessity or cost of the proposed generating facility, except for data related to the costs associated with the mitigation, control, or reduction of the environmental impacts of the proposed generating facility, and, if the proposed facility does not meet the technology performance standard in effect at the time of filing, data related to the costs, including costs associated with the mitigation, control, or reduction of environmental impacts, of other fossil fuel generating technologies.

Within 60 days of the filing of a petition to construct a generating facility, the board shall conduct a public hearing in each locality in which the generating facility would be located. In addition, the board shall, within 180 days of the filing thereof, conduct public evidentiary hearings on every petition to construct a generating facility. Such evidentiary hearings shall be adjudicatory proceedings under the provisions of chapter 30A.

The board shall, within one year from the date of filing, approve a petition to construct a generating facility if the board determines that the petition meets the following requirements: (i) the description of the proposed generating facility and its environmental impacts are substantially accurate and complete; (ii) the description of the site selection process used is accurate; (iii) the plans for the construction of the proposed generating facility are consistent with current health and environmental protection policies of the commonwealth and with such energy policies as are adopted by the commonwealth for the specific purpose of guiding the decisions of the board; (iv) such plans minimize the environmental impacts consistent with the minimization of costs associated with the mitigation, control, and reduction of the environmental impacts of the proposed generating facility; and (v) if the petitioner was required to provide information on other fossil fuel generating technologies, the construction of the proposed generating facility on balance contributes to a reliable, low-cost, diverse, regional energy supply with minimal environmental impacts. Nothing in this chapter shall be construed as requiring the board to make findings regarding the need for, the cost of alternatives to, or alternative sites for a generating facility; provided, however, that the board may, at its discretion, evaluate a noticed alternative site for a generating facility if the applicant requests such an evaluation, or if such an evaluation is an efficient method of administering an alternative site review required by another state or local agency. In addition, nothing in this chapter shall be construed as requiring the board to make findings regarding alternative generating technologies for a proposed generating facility whose expected emissions meet the technology performance standard in effect at the time of filing.

If the board determines that the standards set forth above have not been met, it shall, within one year of the date of filing, either reject, in whole or in part, the petition, setting forth in writing its reasons for such rejection, or approve the petition subject to stated

conditions. In the event of rejection or conditional approval, the applicant may, within 180 days, submit an amended petition. Public and evidentiary hearings on the amended petition shall be held on the same terms and conditions applicable to the original petition.

Upon fulfilling the requirements of this section, a generating facility shall be deemed to contribute to a necessary energy supply for the commonwealth with a minimum impact on the environment at the lowest possible cost. If the board approves a petition to construct a generating facility, the approval shall have no bearing or precedential effect upon any department proceeding regarding the recovery of costs associated with the generating facility or upon any proceeding conducted pursuant to section 94A of this chapter.

SECTION 209. Section 69K of said chapter 164, as so appearing, is hereby amended by striking, in line 3, the word "need" and inserting in place thereof the following word:- interest.

SECTION 210. Said section 69K of said chapter 164, as so appearing, is hereby further amended by striking, in line 26, the word "need" and inserting in place thereof the following word:- interest.

SECTION 211. Said Section 69K of said chapter 164, as so appearing, is hereby further amended by inserting at the end thereof the following new paragraph:-

The provisions of this section shall not apply in the case of a petition for a certificate with respect to a generating facility, which shall be subject to the provisions of section 69K1/2.

SECTION 212. Said chapter 164, as so appearing, is hereby amended by inserting after section 69K the following new section:-

Section 69K1/2. Any applicant that proposes to construct or operate a generating facility in the commonwealth may petition the board for a certificate of environmental impact and public interest with respect to such generating facility. The board shall consider such petition; provided, that (i) the applicant is prevented from building a generating facility because it cannot meet standards imposed by a state or local agency with reasonable and commercially available equipment; or (ii) because the processing or granting by a state or local agency of any approval, consent, permit, or certificate has been unduly delayed for any reason, including the preparation and publication of any environmental impact report required by section 62 of chapter 30; or (iii) the applicant believes there are inconsistencies among resource use permits issued by such state or local agencies; or (iv) the applicant believes that a nonregulatory issue or condition has been raised or imposed by such state or local agencies, such as, but not limited to, aesthetics and recreation; or (v) the generating facility cannot be constructed due to any disapprovals, conditions, or denials by a state or local agency or body, except with respect to any lands or interests therein, excluding public ways, owned or managed by any state agency or local government; or (vi) the facility cannot be constructed because of delays caused by the appeal of any approval, consent, permit, or certificate.

In addition to the foregoing determinations, the board shall, upon petition, consider an application for a certificate of environmental impact and public interest if it finds that any state or local agency has imposed a burdensome condition or limitation on any license or permit which has a substantial impact on the responsibilities of the board as set forth pursuant to section 69H. Any generating facility, with respect to which a certificate is issued by the board, shall thereafter be constructed, maintained, and operated in conformity with such certificate and any terms and conditions contained therein.

A certificate shall be issued only in accordance with the provisions of sections 69K through 69O1/2, inclusive. Notwithstanding the provisions of any other law to the contrary, a certificate may be so issued; provided, however, that when so issued no state agency or local government shall require any approval, consent, permit, certificate, or condition for the construction, operation, or maintenance of the generating facility with respect to which the certificate is issued, and no state agency or local government shall impose or enforce any law, ordinance, by-law, rule, or regulation nor take any action nor fail to take any action which would delay or prevent the construction, operation, or maintenance of such generating facility; provided, however, that the board shall not issue a certificate, the effect of which would be to grant or modify a permit, approval, or authorization, which, if so granted or modified by the appropriate state or local agency, would be invalid because of a conflict with applicable federal water or air standards or requirements. A certificate, if issued, shall be in the form or a composite of all individual permits, approvals, or authorizations which would otherwise be necessary for the construction and operation of the generating facility, and that portion of the certificate which relates to subject matters within the jurisdiction of a state or local agency shall be enforced by said agency under the other applicable laws of the commonwealth as if it had been directly granted by the said agency.

A certificate may be transferred to any other electric company by the holder thereof, subject to the terms and conditions contained therein. The board may amend the terms and conditions of a certificate in accordance with the requirement of subsection (d) of section 69L1/2. Each national pollutant discharge elimination system permit issued by the board pursuant to the provisions of this chapter shall have a fixed term which shall not exceed five years and which shall commence to run when the certificate is issued.

SECTION 213. Section 69L of said chapter 164, as so appearing, is hereby amended by striking, in line 1, the word "An" and inserting in place thereof the following:- Except in the case of an application for a certificate with respect to a generating facility, which shall be subject to the provisions of section 69L1/2, an.

SECTION 214. Said chapter 164, as so appearing, is hereby amended by inserting after section 69L the following new section:-

Section 69L1/2. (a) An applicant for a certificate pursuant to section 69K1/2 shall file with the board a petition, in such form as the board may prescribe, containing the following information:

(1) A description of the location of the generating facility to be constructed or operated thereon;

(2) A summary of the studies which the applicant has made of the environmental impact of the generating facility and a statement of the reasons for its choice of the location;

(3) A copy of the petition for the construction of a generating facility approved under the provisions of section 69J1/4; provided, however, that this requirement may be waived by the board for emergency or unforeseen conditions which may jeopardize the health and safety of the public;

(4) A statement setting forth the reasons for the application for the certificate, which statement shall include the following: (i) all licenses, permits, and other regulatory approvals required by law for the construction or operation of the generating facility which have been granted; (ii) a representation as to the good faith effort made by the applicant to obtain from state agencies and local governments the licenses, permits, and other regulatory approvals required by law for construction or operation of the generating facility; (iii) either (a) a representation as to the inability, if any, of the applicant to comply with any law, ordinance, by-law, rule, and regulation affecting the construction or operation of the generating facility, or (b) a representation as the applicant's inability to proceed with the construction or operation of the generating facility by reason of the denial, delay, appeal, or imposition of a burdensome condition in issuing specified licenses, permits, or approvals; and (iv) such other information as the applicant may deem relevant or the board may by regulation require; and

(5) A copy or copies of said information, studies, and other pertinent information shall be filed and made available for public inspection and copying; provided, however, that the board shall not permit disclosure, other than to another government agency concerned with the same matter, of any information, other than data pertaining to the nature or constituency of any water or air discharge, obtained by or submitted to the board pursuant to the provisions of sections 69H through 69R, inclusive, upon a showing, satisfactory to a majority of the board, that such information if made public would divulge methods or processes entitled to protection as trade secrets of any person.

(b) Each petition shall be accompanied by an affidavit of the applicant certifying that: (i) A copy of the petition and a notice as to the date on which the petition is to be filed have been served on each of the following: the mayor of each city and the board of selectmen of each town in which any part of the proposed generating facility is to be located, the secretary of each executive office, and the attorney general; and (ii) public notice thereof containing a summary of the petition and the date on which notice is to be filed was given by publication, in such manner as the board may be regulation provide.

(c) Failure to give such service or notice may be cured pursuant to an order of the board subsequent to the filing of the petition. The board may further order additional service and notice on such other persons as it deems appropriate.

(d) Each petition may be amended by the applicant at any time, subject to such reasonable requirements of notice as the board may impose. A petition for an amendment of a certificate shall be in such form and subject to such requirements of notice and hearings as the board may provide, consistent with the nature and extent of the proposed amendment.

SECTION 215. Section 69M of said chapter 164, as so appearing, is hereby amended by striking, in line 2, the words "section sixty-nine L," and inserting in place thereof the following:- section 69L or section 69L1/2, whichever is applicable,.

SECTION 216. Said section 69M of said chapter 164, as so appearing, is hereby further amended by striking, in line 5, the words "section sixty-nine L" and inserting in place thereof the following:- section 69L or section 69L1/2, whichever is applicable,.

SECTION 217. Section 69N of said chapter 164, as so appearing, is hereby amended by striking, in line 4, the words "section sixty-nine L," and inserting in place thereof the following:- section 69L or section 69L1/2, whichever is applicable,.

SECTION 218. Said section 69N of said chapter 164, as so appearing, is hereby further amended by striking, in line 6, the words "section sixty-nine L," and inserting in place thereof the following:- 69L or section 69L1/2, whichever is applicable,.

SECTION 219. Said chapter 164, as so appearing, is hereby further amended by inserting after section 69N the following new section:-

Section 69N1/2. (a) An intervenor in a proceeding before the energy facilities siting board, pursuant to section 69N, concerning an application or petition for a certificate to construct a facility that generates electricity, may, at the discretion of the board and subject to the provisions of subsections (b), (c), and (d) of this section, receive compensation to cover all or part of the expenses of intervention, including reasonable attorney fees, expert witness fees, and other reasonable costs incurred in obtaining judicial review of any determination made in such proceeding; provided, that (i) the board determines that the intervenor represents an interest unique to the local community in which the facility is to be located or operated that is material to the proceeding and will not be represented unless the intervenor is able to participate; and (ii) the board determines that the intervenor cannot, without undue hardship, afford to pay the costs of participation or that, in the case of a group or organization, the economic interest of the individual members of the group or organization, taken together, is small in comparison to the costs of effective participation in the proceeding.

(b) To obtain compensation under this section and subject to such regulations as the board may promulgate, an intervenor shall be required to:

(1) within seven days after the first prehearing conference or, where no prehearing conference is held, at least seven days prior to the first public hearing, file with the board and serve upon all parties to the proceeding, an application for a determination of eligibility for compensation, including: (i) a statement of the interest represented; (ii) a statement of the nature and extent of planned participation in the proceeding, including a list of issues and positions that the intervenor intends to raise or present in the representation of an interest that is unique to the local community in which the facility is to be located or operated; (iii) a statement demonstrating that the issues and positions to be raised or presented by the intervenors are material to the proceeding and the interests unique to the local community that are represented by the intervenors will not be represented with regard to these issuers and positions unless the intervenors is able to participate; (iv) a detailed

statement of the intervenor's work plan and budget for participation; and (v) a statement demonstrating that the expense of participating in the proceeding to raise the issues or to present the positions identified in clause (ii) will either prevent the participation of or cause an undue hardship on the intervenors; and

(2) within 60 days of the issuance of a final order or decision by the board in the proceeding, file with the board and serve upon all parties to the proceeding, an application for an award of compensation, including, among other information: (i) a detailed description of the services and expenditures for which compensation is sought and supporting documentation of such expenditures and services; and (ii) a statement demonstrating that intervenors made a substantial contribution to the proceeding.

(c) In ruling on the eligibility of any intervenor for compensation and on the amount, if any, of compensation to be awarded to an eligible intervenor, the board shall consider: (i) the unique interest represented by the intervenor; (ii) whether the participation by the intervenor could, or does, result in duplication of expenses and whether the efforts of other parties to the proceeding could or did, in whole or in part, provide adequate representation of the unique interests represented by the intervenor; (iii) whether the participation by the intervenor could or did result in a substantial contribution, in whole or in part, to the board's order or decision; and (iv) whether the participation by the intervenor could or did result in unnecessary delay or inefficiency in the proceedings.

(d) In no event shall an individual intervenor be awarded compensation in excess of $25,000, nor all intervenors together be awarded compensation in excess of $50,000, in any proceeding or proceedings concerning a single application or petition for a certificate to construct a facility that generates electricity. All amounts awarded as compensation to intervenors under this section shall, upon order of the board, be paid by the party seeking the certificate.

(e) This section shall apply to all proceedings before the board concerning applications or petitions for a certificate of environmental impact and public interest to construct a facility that generates electricity that are filed after January 1, 1998.

SECTION 220. Section 69O of said chapter 164, as so appearing, is hereby amended by inserting, in line 2, after the word "petition" the following:- for a certificate pursuant to section 69K.

SECTION 221. Said section 69O of said chapter 164, as so appearing, is hereby further amended by inserting at the end thereof the following new paragraph:-

The provisions of this section shall not apply in the case of a petition for a certificate with respect to a generating facility filed pursuant to section 69K1/2, which shall be subject to the provisions of section 69O1/2.

SECTION 222. Said chapter 164, as so appearing, is hereby amended by inserting after section 69O the following new section:-

Section 69O1/2. As expeditiously as possible, but in no event later than 180 days from the date of filing a petition for a certificate with regard to a generating facility pursuant to section 69K1/2, the board shall, by a majority vote, render a decision upon the petition either by denying the petition or by granting the petition, or by granting the

petition subject to such terms and conditions as the board may determine. Neither the board nor any other person shall be bound by the requirements of sections 61 through 62H, inclusive, of chapter 30 to the extent that compliance with said requirements will prevent the board from rendering a decision upon the petition within the time limits of the section.

A certificate shall be issued only if the board determines that the issues raised by state agencies or local governments regarding the proposed generating facility have been addressed in a comprehensive manner by the board either in its approval of said generating facility under section 69J1/4 or in its review under section 69K1/2. The board shall make its decision in writing and shall include therein its findings and opinions with respect to the following: (i) the compatibility of the generating facility with considerations of environmental protection, public health, and public safety; (ii) the extent to which construction and operation of the generating facility will fail to conform with existing state and local laws, ordinances, by-laws, rules, and regulations and reasonableness of exemption thereunder, if any, consistent with the implementation of the energy policies contained in this chapter; and (iii) the public interest or convenience requiring construction and operation of the generating facility.

SECTION 223. Section 69R of said chapter 164, as so appearing, is hereby amended by striking the first paragraph and inserting in place thereof the following new paragraph:-

Section 69R. Any electric or gas company may petition the department for the right to exercise the power of eminent domain with respect to the facility or facilities specified and contained in a petition submitted in accordance with section 69J or a bulk power supply substation if such electric or gas company is unable to reach agreement with the owners of land for the acquisition of any necessary estate or interest in land. The applicant shall forward, at the time of filing such petition, a copy thereof to each city, town, and property owner affected.

SECTION 224. Said section 69R of said chapter 164, as so appearing, is hereby further amended by striking, in lines 19 and 20, the words "the community in which the greater portion of the unit is located." and inserting in place thereof the following:- in the community in which the land to be taken is located. For facilities involving takings in several communities, a public hearing or hearings shall be held in communities in proximity to the land to be taken, as determined by the department.

SECTION 225. Said section 69R of said chapter 164, as so appearing, is hereby further amended by striking the seventh paragraph and inserting in place thereof the following new paragraph:-

This section shall not be construed as abrogating the department's jurisdiction described in section 72 in respect to transmission lines or the department's jurisdiction described in sections 75B through 75G, inclusive, in respect to natural gas transmission lines.

SECTION 226. Section 76B of said chapter 164, as so appearing, is hereby amended by striking, in line 5, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 227. Said chapter 164, as so appearing, is hereby amended by striking section 78 and inserting in place thereof the following new section:-

Section 78. If any electric, gas, generation, transmission, or distribution company, or any supplier violates or fails to comply with the provisions of law, or violates or fails to comply with any lawful order of the department, the department shall give written notice thereof to such company or supplier and to the attorney general.

SECTION 228. Said chapter 164, as so appearing, is hereby amended by striking section 79 and inserting in place thereof the following new section:-

Section 79. The supreme judicial or superior court shall have jurisdiction in equity, upon application of the department, to enforce its lawful orders and all laws relative to cities and towns engaged in the manufacture and sale or distribution and sale of electricity, electric, gas, generation, transmission or distribution companies, or suppliers.

SECTION 229. Section 87 of said chapter 164, as so appearing, is hereby amended by striking, in lines 1 and 2, the words "manufacture and sale" and inserting in place thereof the following words:- manufacture, sale, or distribution.

SECTION 230. Section 92 of said chapter 164, as so appearing, is hereby amended by inserting, in line 3, after the words "gas or" the following words:- the distribution of.

SECTION 231. Said section 92 of said chapter 164, as so appearing, is hereby further amended by striking, in line 10, the words "electricity or".

SECTION 232. Section 92A of said chapter 164, as so appearing, is hereby amended by striking, in line 2, the words "or electricity".

SECTION 233. Said section 92A of said chapter 164, as so appearing, is hereby further amended by striking, in line 5, the words "or electricity".

SECTION 234. Said section 92A of said chapter 164, as so appearing, is hereby further amended by striking, in line 9, the words "or electricity".

SECTION 235. Said section 92A of said chapter 164, as so appearing, is hereby further amended by striking, in line 15, the words "or electricity".

SECTION 236. Section 94 of said chapter 164, as so appearing, is hereby amended by inserting, in line 61, after the word "provided." the following sentence:- Generation companies and suppliers shall be exempt from the provisions of this section;

provided, however, that upon the request of the department generation companies and suppliers shall file such schedules as herein required.

SECTION 237. Section 94A of said chapter 164, as so appearing, is hereby amended by inserting, in line 19, after the word "void." the following sentence:- The department is authorized to exempt any electric or generation company from any or all of the provisions of this section upon a determination by the department, after notice and a hearing, that an alternative process or incentive mechanism is in the public interest.

SECTION 238. Section 94B of said chapter 164, as so appearing, is hereby amended by inserting at the end thereof the following new paragraph:-

No electric or gas company that establishes a retail marketing affiliate to sell electric generation or gas services to retail customers may, after March 1, 1998, own more than a fixed percentage of any such affiliate, such percentage to be determined by the department to prevent abuse of market power. In any instance where an electric company retains generation resources, such electric company shall be required to establish a marketing affiliate in compliance with the provisions of this section. In any instance where an electric company establishes a retail marketing affiliate or divests a percentage of its ownership interest in an affiliate on or after March 1, 1998, the department shall determine the amount of revenues generated as a result of said sale or spin-off, and all such revenues shall be directly applied as a credit to ratepayers.

SECTION 239. Section 94G of said chapter 164, as so appearing, is hereby amended by inserting at the end thereof the following new subsection:-

(g) The department is authorized to exempt any electric or generation company or supplier from any or all of the provisions of this section upon a determination by the department, after notice and a hearing, that an alternative process or incentive mechanism is in the public interest.

SECTION 240. Section 94G1/2 of said chapter 164, as so appearing, is hereby amended by inserting at the end thereof the following new paragraph:-

The department is authorized to exempt any electric, generation, or gas company from any or all of the provisions of this section upon a determination by the department, after notice and a hearing, that an alternative process or incentive mechanism is in the public interest.

SECTION 241. Said chapter 164, as so appearing, is hereby further amended by inserting after section 94H the following new sections:-

Section 94I. Companies and persons engaged in retail electricity sales shall quarterly, on or before such date as the department establishes, make to the department, in a form prescribed by it, a return for the past quarter detailing the estimated mix of energy resources used to generate electricity procured from both in-state and out-of-state sources and the environmental impacts resulting from each source. Upon examination and after a public hearing, the department may certify the accuracy of each resource portfolio submitted. The department shall, to facilitate this process, establish a

standardized system of reporting for all retail electricity suppliers which includes the categories of environmental impacts to be reported under this section. The categories shall include, but not be limited to, nitrogen oxides, sulfur dioxide, carbon dioxide, particulates, heavy metals, radionuclides, and radioactive waste. Retail electric suppliers which differentiate between products offered for sale on the basis on fuel mix may submit separate resource portfolios for certification by the department along with an overall portfolio which represents the total mix of all energy resources acquired for resale to in-state consumers.

The department shall devise a standardized, easily understood format for displaying a summary of the information required from each retail electric supplier for each resource portfolio offered for sale. This summary shall include a breakdown of the resource mix for the customer's specific portfolio and the average portfolio offered for sale by the retail supplier. In addition, the summary shall identify environmental impacts resulting from the customer-specific and average supplier portfolios along with a comparison of how the impacts differ from an average of all retail suppliers servicing customers within the state. The information shall be included in all monthly billing statements sent to customers. On an annual basis, the department shall release a report to the public comparing the resource mix and environmental impacts of each retail electricity supplier servicing customers in the commonwealth. The department shall promulgate any rules and regulations necessary to implement the provisions of this section.

Section 94J. All retail electric suppliers shall certify to the department that any power purchased for resale to in-state consumers, businesses, or government agencies is produced by fossil fuel generation plants operating in full compliance with federal new source performance standards or any subsequent standard applied to the construction or substantial renovation of new facilities which may include stricter air emissions standards. The department shall monitor and enforce compliance with this standard by requiring annual reporting, beginning with the year ending December 31, 2000. The department may reject certification for non-compliant suppliers based upon failure to submit complete information or as a result of electricity purchases for resale to in-state consumers which do not meet the generation standard. If a retail electric supplier fails to obtain certification, it may reapply at any time within six months after the annual deadline. After the six-month grace period, the department shall prohibit a non-compliant supplier from continuing to utilize the services of regulated transmission and distribution utilities. The department shall promulgate rules and regulations necessary to implement this section.

The executive office of environmental affairs, in the discharge of its duties, is hereby authorized to negotiate and enter into agreements or compacts with any official agency of any state or the federal government for the purpose of promulgating and cooperatively enforcing the environmental emissions standard applied to fossil-fuel generators.

The department of environmental protection is authorized to undertake additional regulatory rulemakings for the purpose of reducing allowable emissions from in-state fossil fuel generating plants if statewide emissions of nitrogen oxides, sulfur dioxide, carbon dioxide, particulates, and heavy metals from power generating facilities have not decreased by 25 percent by December 31, 2001.

Section 94K. The department shall be authorized to prohibit an unregulated retail electric supplier from conducting sales with in-state consumers if the supplier fails to comply with the provisions of section 11G or 11I of chapter 25A, or section 94I or 94 J of this chapter. If the department determines that a supplier has repeatedly violated such provisions of section 11G or 11I of chapter 25A, or section 94I or 94 J of this chapter, it may revoke, after a public hearing, the supplier's privilege to conduct further business with regulated transmission and distribution utilities for the purpose of making sales to in-state customers. Upon the filing of a petition by an individual alleging repeated violations, the department shall hold public hearings to determine whether or not the alleged violations merit a suspension of the supplier's privilege to conduct business with in-state customers.

SECTION 242. Section 95 of said chapter 164, as so appearing, is hereby amended by striking, in line 2, the words "manufacture or sale" and inserting in place thereof the following words:- manufacture, sale, or distribution.

SECTION 243. Said chapter 164, as so appearing, is hereby further amended by inserting after section 102B the following new section:-

Section 102C. (a) The attorney general is hereby authorized to bring an action pursuant to chapter 93A to enforce the consumer protection provisions of sections 1B, 1C, 1D, 1E, 1F, and 137 of this chapter and to obtain restitution, civil penalties, and any other relief awarded pursuant to said chapter 93A. At the attorney general's discretion, pursuant to subsection (c) of section 2 of said chapter 93A, the attorney general may promulgate rules and regulations relative to methods, acts, and practices of electric and generation companies and suppliers.

(b) All electric companies and all suppliers doing business in the commonwealth shall submit to arbitration, if such arbitration is requested by a retail electric customer alleging an unfair or deceptive trade practice by its retail electric suppliers or electric company. The department shall, in coordination with the office of consumer affairs, promulgate rules and regulations to implement this section to provide for the expeditious treatment of complaints brought by any retail consumer. Said rules and regulations shall include, but not be limited to, a description of the procedures available to redress violations of the rules and regulations and afford said consumers the opportunity to participate in a voluntary mediation process with the supplier or electric company to settle the claim without recourse to arbitration, and a provision that any violation of said rules and regulations shall be deemed an unfair and deceptive act pursuant to the provisions of chapter 93A. Said arbitration shall be performed by the department or by a state-certified professional arbitrator or arbitration firm appointed by the department and operating in accordance with the rules and regulations promulgated by the department. The department shall be authorized to designate a portion of the general access charge as defined in section 1 of this chapter sufficient to cover the cost of administration of this subsection.

SECTION 244. Section 125A of said chapter 164, as so appearing, is hereby amended by striking, in line 1, the word "company" and inserting in place thereof the following:- company, generation company, or supplier,.

SECTION 245. Section 128 of said chapter 164, as so appearing, is hereby amended by striking, in line 2, the word "distribution" and inserting in place thereof the following:- distribution, or only distribution,.

SECTION 246. Chapter 164 of the General Laws, as so appearing, is hereby further amended by inserting after section 133 the following new sections:-

Section 134. (a) Any municipality or any group of municipalities acting together within the commonwealth is hereby authorized to aggregate the electrical load of interested electricity consumers within its boundaries. Such municipality or group of municipalities may group retail electricity customers to solicit bids, broker, and contract for electric power and energy services for such customers. Such municipality or group of municipalities may enter into agreements for services to facilitate the sale and purchase of electric energy and other related services. Such service agreements may be entered into by a single city, town, county, or by a group of cities, towns, or counties.

A municipality or group of municipalities which aggregates its electrical load and operates pursuant to the provisions of this section shall not be considered a utility engaging in the wholesale purchase and resale of electric power. Providing electric power or energy services to aggregated customers within a municipality or group of municipalities shall not be considered a wholesale utility transaction. The provision of aggregated electric power and energy services as authorized by this section shall be regulated by any applicable laws or regulations which govern aggregated electric power and energy services in competitive markets.

A municipality or group of municipalities establishing load aggregation pursuant to this section shall develop a plan, for review by its citizens, detailing the process and consequences of aggregation. Any municipal load aggregation established pursuant to this section shall provide for universal access, reliability, and equitable treatment of all classes of customers and shall meet any requirements established by state law or by the department concerning aggregated service. A municipality or group of municipalities establishing load aggregation shall prepare and file a statement of intent and such implementation plan with the department. Said plan shall include an organizational structure of the program, its operations, and its funding; rate setting and other costs to participants; the methods for entering and terminating agreements with other entities; the rights and responsibilities of program participants; and termination of the program.

A town may aggregate electrical load upon authorization by a majority vote of town meeting or town council. A city may authorize aggregation by a majority vote of the city council, with the approval of the mayor, or the city manager in a Plan D or Plan E city. Two or more municipalities may as a group authorize aggregation by a majority vote of each particular municipality as herein required.

Participation by any retail customer in a municipal or group aggregation program shall be voluntary. Following adoption of aggregation through the votes specified above, such program shall allow any retail customer to opt-out and choose any supplier or

provider such retail customer wishes. Nothing in this section shall be construed as authorizing any city or town or any municipal retail load aggregator to restrict the ability of retail electric customers to obtain or receive service from any authorized provider thereof.

(b) A municipality or group of municipalities establishing load aggregation pursuant to subsection (a) may, by a vote of its town meeting or legislative body, whichever is applicable, may adopt an energy plan which shall define the manner in which the municipality or municipalities may implement demand side management programs and renewable energy programs that are consistent with any state energy plan developed pursuant to chapter 25B or chapter 164. After adoption of the energy plan by such town meeting or other legislative body, the city or town clerk shall submit the plan to the department to certify that it is consistent with any such state energy plan. If the plan is certified by the department, the municipality or group of municipalities may apply for monies from the Massachusetts renewable energy fund, established pursuant to section 2QQ of chapter 29, in an amount not to exceed that contributed by retail customers within said municipality or group of municipalities. If the department determines that the energy plan is not consistent with any such state energy plan, it shall inform the municipality or group of municipalities within six months by written notice the reasons why it is not consistent with any such state energy plan. The municipality or group of municipalities may re-apply at anytime with an amended version of the energy plan.

The municipality or group of municipalities shall not be prohibited from proposing for certification an energy plan which is more specific, detailed, or comprehensive or which covers additional subject areas than any such state energy plan. This subsection shall not prohibit a municipality or group of municipalities from considering, adopting, enforcing, or in any other way administering an energy plan which does not comply with any such state energy plan so long as it does not violate the laws of the commonwealth.

The municipality or group of municipalities shall, within two years of approval of its plan or such further time as the department may allow, provide written notice to the department that its plan is implemented. The department may revoke certification of the energy plan if the municipality or group of municipalities fails to substantially implement the plan or if it is determined by independent audit that the funds were misspent within the time allowed under this subsection.

Section 135. Any for-profit corporation, non-profit corporation, or quasi-public authority, organized pursuant to the laws of the commonwealth, is hereby authorized to establish a corporate retail load aggregator for the purpose of purchasing bulk electricity to serve affiliated corporations or affiliated business units organized pursuant to the laws of the commonwealth which are not sited within the boundaries of a municipal light department within the commonwealth. A corporate retail load aggregator shall be authorized (i) to purchase electricity from any entity authorized to sell electricity; (ii) to sell electricity at retail to any corporate affiliate or business unit located outside of the boundaries of communities served by municipal light departments within the commonwealth; and (iii) to enter into such contracts and agreements as are necessary or appropriate to provide such service. A corporate retail load aggregator shall be prohibited from engaging in the generation of electric power and from owning or operating any

facilities for the transmission or distribution of electric power, with the exception of meters.

A corporation may establish a corporate retail load aggregator upon authorization by a majority vote of its board of directors. After a corporation has voted to establish a corporate retail load aggregator, the secretary of the corporation shall forthwith transmit to the department a certified copy thereof. A corporation that has established a corporate retail load aggregator shall appoint, by a majority vote of its board of directors or, as the case may be, a manager or a managing board of the corporate retail load aggregator. Such manager or managing board shall have full charge of the operation and management of the corporate retail load aggregator; the entry into contracts and agreements pursuant to which power will be purchased and sold; the employment of attorneys, agents, and servants; the collection of bills; and the keeping of accounts. At the discretion of the corporation, corporate officials may serve as such manager or on such managing board. The compensation and term of office of such manager or managing board shall be fixed by the corporation.

Nothing in this section shall be construed as relieving any company which provides generation, transmission, or distribution of electricity or any combination thereof, from any obligation relative to the transmission and distribution of electricity to the corporation forming a corporate retail load aggregator.

Corporate load aggregators shall be subject to any rules and regulations promulgated by the department through existing statute or amendments thereto, including licensure requirements.

Section 136. (a) Any number of persons may associate themselves together as a cooperative, with or without capital stock, for the transaction of any lawful business associated with the purchase, acquisition, distribution, sale, resale, supply, and disposition of energy or energy-related services to wholesale or retail customers, subject to federal and state laws and regulations. Unless otherwise served by a municipal light plant constructed or acquired pursuant to the provisions of this chapter, any natural person, firm, corporation, business trust, partnership, public or private agency, non-profit organization or corporation, cooperative, or local municipality may become a member or shareholder of a cooperative. Such member or shareholder may thus access any services the cooperative has to offer and participate in the governance of the cooperative as provided in this subsection or by the bylaws of the cooperative.

(b) A cooperative may be established for any purpose outlined in subsection (a) of this section that may lawfully be carried out by any other corporation; provided, that a cooperative shall be organized and shall conduct its business primarily for the mutual benefit of its members as patrons of the cooperative. A cooperative shall have all of the powers of a natural person, including the power to participate with others in any partnership, joint venture, or other association, transaction, or arrangement of any kind. In addition, each cooperative subject to this chapter shall have the following powers:

(i) To have perpetual succession by its corporate name unless a limited period of duration is stated in the articles of incorporation;

(ii) To sue and be sued, complain, and defend its corporate name;

(iii) To have and use a corporate seal;

(iv) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, and deal in and with real or personal property or any interest therein, wherever situated;

(v) To sell, convey, mortgage, pledge, lease, exchange, transfer, or otherwise dispose of all or any part of its property and assets;

(vi) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, use, and deal in and with shares or other interest in, or obligations of, other domestic or foreign corporations, associations, partnerships, or individuals, or direct or indirect obligations of the United States or any other government, state, territory, governmental district, or municipality, or any instrumentality thereof;

(vii) To make contracts and incur liabilities, borrow money at rates of interest the cooperative may determine, issue notes, bonds, certificates of indebtedness, and other obligations, receive funds from members and pay interest thereon, issue capital stock and certificates representing equity interests in assets, allocate earnings and losses at the times and in the manner the articles of incorporation or bylaws or other contract specify, create book credits, capital funds, and reserves, and secure obligations by mortgage or pledge of any of its property, franchises, and income;

(viii) To lend money for corporate purposes, invest and reinvest funds, and take and hold real and personal property as security for the payment of funds loaned or invested;

(ix) To conduct business, carry on operations, have offices, and exercise the powers granted by this subsection, within or without this commonwealth;

(x) To elect or appoint officers and agents of the corporation, define their duties, and fix their compensation;

(xi) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this commonwealth, for the administration and regulation of the affairs of the cooperative;

(xii) To make donations for the public welfare or for charitable, scientific, or educational purposes;

(xiii) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, stock bonus plans, stock option plans, and other incentive plans for any or all of its directors, officers, and employees;

(xiv) To be a partner, member, associate, or manager of any partnership, joint venture, trust, or other enterprise;

(xv) To cease corporate activities and surrender its corporate franchise;

(xvi) To purchase, acquire, distribute, sell, resell, supply, and dispose of energy or other services;

(xvii) To purchase, acquire, distribute, sell, resell, supply, and provide any energy or energy-related services to wholesale or retail customers;

(xviii) To have access on comparable terms to energy transportation systems for delivery of energy to its members and other customers;

(xix) To sell electricity to any consumer, including, but not limited to, a consumer that receives electric distribution, transmission, or other services from an entity other than the cooperative organized under subsection (a), other than consumers served by municipal light plants, that is selling such electricity to such consumer; provided, that an entity providing such distribution, transmission, or other services shall provide non-

discriminatory access and pricing for the use of its property and services and shall otherwise facilitate such transactions;

(xx) To contract with natural persons, firms, corporations, business trusts, partnerships, public and private agencies, non-profit organizations and corporations, other cooperatives, and local municipalities to accomplish any purposes of the cooperative; and

(xxi) To have and exercise all powers necessary or convenient to effect its purposes.

(c) A cooperative organized pursuant to this section shall be managed by a board of not less than three directors. The directors shall be elected by and from the members of the cooperative at such time, in such manner, and for such term of office as the bylaws may prescribe and shall hold office during the term for which they were elected and until their successors are elected and qualified. Any vacancy occurring in the board of directors, and any directorship to be filled by reason of an increase in the number of directors, may be filled by the board of directors unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner. A director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of the predecessor in office.

(d) Any cooperative organized pursuant to the provisions of this section may enact bylaws to govern itself in the implementation of the provisions of this section which are not inconsistent with the provisions of this section.

(e) The right of a member of a cooperative to vote may be limited, enlarged, or denied to the extent specified in the articles of incorporation or bylaws. Unless so limited, enlarged, or denied, each member shall be entitled to one vote on each matter submitted to a vote of members.

(f) A member of the board of directors or an officer of any cooperative subject to the provisions of this section shall have immunity from liability equivalent to that granted to directors and officers of for-profit corporations in the commonwealth. Except for debts lawfully contracted between a member and the cooperative, no member shall be liable for the debts of the cooperative to an amount exceeding the sum remaining unpaid on his or her membership fee or subscription to capital stock.

Section 137. (a) For the purposes of this section, the term "third party verification" shall mean an appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative who has obtained the customer's oral authorization to change to a new electricity service provider, such authorization to include appropriate verification data, such as the customer's date of birth and social security number.

(b) A customer, a generation company, a supplier, or an aggregator may initiate a complaint that a customer's retail electricity service has been switched without the customer's prior authorization. Such complainant shall file the complaint with the department within 30 days after the statement date of the notice indicating that the customer's retail electricity service has been switched. The department shall, within 10 business days of receiving the complaint, request from the customer a copy of the customer's electricity bill, the name of the original service provider, the name of the new service provider, and any other information the department may deem relevant. The customer shall, within 15 business days of the department's notifying the customer, submit to the department the requested information. Within 15 business days of

receiving the request of information from the customer, the department shall send (i) to the customer, a letter acknowledging receipt of the information; (ii) to the original service provider, a letter informing it of the pending complaint and requesting it to provide information relevant to the service switch; and (iii) to the new service provider, a letter informing it of the pending complaint, requesting the customer's letter of authorization to switch his service provider or third party verification of the customer's permission to switch, and requesting it to provide other information the department deems relevant. The original service provider and the new service provider shall, within 30 business days of the department's request, return the requested information to the department. Within 25 business days after receiving a copy of the customer's third party verification and all relevant information as required herein, the department shall determine if the customer authorized the new service provider to switch the customer's service.

(b) A generation company, a supplier, or an aggregator licensed by the department to do business in the commonwealth pursuant to section 1F of this chapter shall prepare an information booklet describing a customer's rights under the provisions of this chapter. Such company, supplier, or aggregator shall mail this booklet to its customers. Upon the switching of a customer's service provider, there shall be included in the customer's bill an acknowledgment to be completed by the customer agreeing to the service switch.

(c)(1) If the department determines that the new service provider does not possess the required letter of authorization or third party verification, the department shall calculate and require the new service provider to refund the following: (i) to the customer, the difference between what the customer would have paid to the previous service provider and actual charges paid to the new service provider; (ii) to the customer, any reasonable expense the customer incurred in switching back to the original service provider; and (iii) to the original service provider, any lost revenue, which shall consist of the amount of money the original service provider would have received for the service used by the customer during the time the customer received services from the new service provider if the customer's service had not been switched. This amount shall gross, irrespective of expenses, what the original service provider would have reasonably incurred providing the services to the customer.

(2) Any generation company, supplier, or aggregator determined by the department to have switched any customer's service provider without proper authorization from the customer more than once in a twelve-month period shall be subject to a civil penalty not to exceed $1,000 for the first offense and not less than $2,000 nor more than $3,000 for any subsequent offense. In determining the amount of the civil penalty, the department shall consider the nature, circumstances, and gravity of the violation, the degree of the respondent's culpability, and the respondent's history of prior offenses.

(3) Any generation company, supplier, or aggregator determined by the department to have switched any customer's service provider without proper authorization more than six times in a twelve-month period shall be prohibited from doing business in the commonwealth for a period of five years.

(d) The department shall track instances in which a generation company, supplier, or aggregator switched a customer's electricity service without the customer's prior authorization. The department shall keep a record of all unauthorized switches which

occurred during a calendar year. Beginning with calendar year 1999, the department shall, by March thirty-first of each year, file an annual report with the joint committee on government regulations and the house and senate committees on ways and means detailing the total number of unauthorized switches, enforcement procedures undertaken by the department against such slamming tactics, the total amount of dollars returned to customers, the total amount of dollars collected in civil penalties pursuant to subsection (c), and the overall impact of the provisions of this section.

Section 138. Any person, firm, electric or generation company, supplier, or other corporation doing business in the commonwealth who violates any provisions of any code adopted by the department or of any rule or regulation promulgated by the department pursuant to sections 1A through 1I, inclusive, of this chapter, or any provision of chapter 93A shall be subject to a civil penalty not to exceed $25,000 for each violation for each day that the violation persists; provided, however, that the maximum civil penalty shall not exceed $1,000,000 for any related series of violations.

Any such civil penalty shall be determined by the department after a public hearing. In determining the amount of the penalty, the department shall consider the following: the appropriateness of the penalty to the size of the business of the person, firm, or corporation charged; the gravity of the violation; and the good faith of the person, firm, or corporation charged in attempting to achieve compliance after notification of a violation. The amount of the penalty, when finally determined, may be deducted from any sums which the commonwealth may owe to the person, firm, or corporation charged or may be recovered in a civil action commenced in the superior court.

Section 139. Notwithstanding any general or special law, rule, or regulation to the contrary, any non-profit institution in the commonwealth or any agency, executive office, department, board, commission, bureau, division, or authority of the commonwealth, including the executive, legislative, and judicial branches of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, may, unless located within the boundaries of a community served by a municipal light department, participate in and become a member of any program organized and administered by or on behalf of any public instrumentality of the commonwealth or of any subsidiary organization thereof for the purpose of group purchasing of electricity, natural gas, telecommunications services, or similar products.

SECTION 247. Section 1 of chapter 164A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 3, in the definition of "Department" the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 248. Section 8 of said chapter 164A, as so appearing, is hereby amended by striking, in lines 73 and 74, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 249. Section 1 of chapter 165 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 7, in the definition of

"Department" the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 250. Section 28 of said chapter 165, as so appearing, is hereby amended by striking, in line 3, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 251. Section 4 of chapter 166 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 3, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 252. Section 7 of said chapter 166, as so appearing, is hereby amended by striking, in line 6, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 253. Section 8 of said chapter 166, as so appearing, is hereby amended by striking, in line 9, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 254. Section 11 of said chapter 166, as so appearing, is hereby amended by striking, in line 3, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 255. Section 15E of said chapter 166, as so appearing, is hereby amended by striking, in line 62, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 256. Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking, in line 65, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 257. Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking, in line 71, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 258. Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking, in lines 76 and 77, the words "Department of Public Utilities" and inserting in place thereof the following words:- said department's.

SECTION 259. Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking, in line 83, the letters "D.P.U." and inserting in place thereof the following words:- said department's.

SECTION 260. Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking, in line 125, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 261. Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking, in line 131, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 262. Section 22A of said chapter 166, as so appearing, is hereby amended by striking, in line 5, in the definition of "Department" the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 263. Section 22L of said chapter 166, as so appearing, is hereby amended by striking, in line 4, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 264. Section 25A of said chapter 166, as so appearing, is hereby amended by striking, in line 24, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 265. Said section 25A of said chapter 166, as so appearing, is hereby further amended by inserting at the end thereof the following paragraph:-

Said department, pursuant to the provisions of this section, shall determine a just and reasonable rate for the use of poles and communication ducts and conduits of a utility for attachments of a licensee by assuring the utility recovery of not less than the additional costs of making provision for attachments nor more than the proportional capital and operating expenses of the utility attributable to that portion of the pole, duct, or conduit occupied by the attachment. Such portion shall be computed by determining the percentage of the total usable space on a pole or the total capacity of the duct or conduit that is occupied by the attachment.

SECTION 266. Section 27 of said chapter 166, as so appearing, is hereby amended by striking, in line 6, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 267. Section 44 of said chapter 166, as so appearing, is hereby amended by striking, in line 11, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 268. Said section 44 of said chapter 166, as so appearing, is hereby further amended by striking, in line 25, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 269. Section 1 of chapter 166A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking the definition of "'Community

antenna television system' or 'CATV system'" and inserting in place thereof the following definition:-

(b) "Community antenna television system" or "CATV system", a facility as defined by federal law at 47 U.S.C. section 521.

SECTION 270. Said section 1 of said chapter 166A, as so appearing, is hereby further amended by striking the definition of "Licensee" and inserting in place thereof the following definition:-

(e) "Licensee", a person who is issued a license pursuant to section 3.

SECTION 271. Said chapter 166A, as so appearing, is hereby further amended by striking section 2A and inserting in place thereof the following section:-

Section 2A. The commissioner or his designee shall preside at all hearings except as hereinafter provided. Matters may be heard, examined, and investigated by an employee of the commission designated and assigned thereto by the commissioner. Such employee shall make a report in writing on every such matter to the commissioner for the commissioner's decision thereon. For the purposes of hearing, examining, and investigating any such matter, such employee shall have all of the powers conferred upon a commissioner by section 17, and all pertinent provisions of said section shall apply to such proceedings.

SECTION 272. Said chapter 166A, as so appearing, is hereby further amended by inserting after section 3 the following new section:-

Section 3A. Any person regulated pursuant to chapter 25, 159, 166, or 166A, or any combination of such persons in a merged or joint venture, who seeks to construct, commence construction, or operate a CATV system in any city or town by means of wires and cables of its own or any other person, shall comply with the licensing provisions of section 3 of this chapter and any and all applicable provisions of this chapter prior to the commencement of construction or operation of the CATV system. If such person or combination of such persons is an entity regulated by the department of regulated industries pursuant to chapter 25, 159, or 166, the commission shall consult with said department in discharging the performance of its functions and duties and in assisting cities and towns pursuant to chapter 166A. Nothing herein nor in chapters 25, 159, 166, or 166A shall be construed as delegating licensure authority to said department in the performance of CATV system licensing.

SECTION 273. Section 10 of said chapter 166A, as so appearing, is hereby amended by striking, in line 6, the words "every three months" and inserting in place thereof the following:- annually.

SECTION 274. Section 5 of chapter 167B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 78, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 275. Section 20 of said chapter 167B, as so appearing, is hereby further amended by striking, in line 55, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 276. Section 1 of chapter 182 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in lines 6 and 7, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 277. Section 32 of chapter 184 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 96, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 278. Section 5 of chapter 187 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 17, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 279. Said section 5 of said chapter 187, as so appearing, is hereby further amended by striking, in line 23, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 280. Section 76 of chapter 233 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 6, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 281. Section 34 of chapter 262 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 56, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 282. Said section 34 of said chapter 262, as so appearing, is hereby further amended by striking, in line 60, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 283. Said section 34 of said chapter 262, as so appearing, is hereby further amended by striking, in line 66, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 284. Said section 34 of said chapter 262, as so appearing, is hereby further amended by striking, in line 70, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 285. Section 44 of said chapter 262, as so appearing, is hereby amended by striking, in line 1, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 286. Section 120D of chapter 266, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 41, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 287. Section 6 of chapter 268 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 3, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 288. Section 33 of said chapter 268, as so appearing, is hereby amended by striking, in line 6, the words "public utilities" and inserting in place thereof the following words: regulated industries.

SECTION 289. Chapter 268A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 8A the following new section:-

Section 8B. No member of the department of regulated industries commission, appointed pursuant to section 2 of chapter 25 of the General Laws, shall, within one year after his or her service has ceased or terminated on said commission, be employed by, or lobby said commission on behalf of, any company or regulated industry over which said commission had jurisdiction during the tenure of such member of the commission.

SECTION 290. Section 17B of chapter 271 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking, in line 3, the words "public utilities" and inserting in place thereof the following words:- regulated industries.

SECTION 291. Chapter 614 of the Acts of 1968 is hereby amended by striking out section 1 as appearing in section 1 of chapter 777 of the Acts of 1981 and inserting in place thereof the following section:-

Section 1. Declaration of Policy. - It is hereby declared that, for the benefit of the people of the commonwealth, the increase of their commerce, welfare, and prosperity, and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential that institutions for higher education within the commonwealth be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities; that it is essential that hospitals and other charitable institutions within the commonwealth be provided with appropriate additional means to expand, enlarge, and establish health care, hospital, charitable, and other related facilities; that it is essential that cultural institutions within the commonwealth be provided with appropriate additional means to expand the services and resources which they offer for the intellectual and artistic enrichment of the people of the commonwealth and for educational and scientific purposes; and that it is the purpose of this act to provide a measure of assistance and an alternative method to enable institutions for higher education, hospitals, other charitable institutions, and cultural institutions in the commonwealth to provide the

facilities and structures which are sorely needed to accomplish the purposes of this act, all to the public benefit and good, to the extent and manner provided herein.

SECTION 292. The definition of "project" in section 3 of said chapter 614, as most recently amended by section 123 of chapter 653 of the acts of 1989, is hereby amended by striking, in line 60, as appearing in section 1 of chapter 789 of the Acts of 1985, the word "parties." and inserting in place thereof the following:- parties; and, notwithstanding anything in this definition to the contrary, "project" may also include any capital or operating expenditure which may legally be made by any participating institution and the thing produced or acquired by such expenditure.

SECTION 293. The definition of "hospital" in said section 3 of said chapter 614, inserted by section 2 of said chapter 789, is hereby amended by striking, in line 9, the word "facility." and inserting in place thereof the following:- facility; or any other non-profit charitable institution in the commonwealth not otherwise eligible to participate under this act; provided, however, that such other non-profit charitable institution may only undertake the financing and construction or acquisition of a project or undertake the refunding or refinancing of obligations or of a mortgage or of advances to the extent that such projects, obligations, mortgages, or advances consist of or result from the purchase of energy or from energy conservation or related projects of such other non-profit charitable institution; and provided further, that such other non-profit charitable institution participates in or is a member of a group power purchasing program organized and administered by or on behalf of the authority.

SECTION 294. Chapter 292 of the Acts of 1978, as most recently amended by section 1 of chapter 56 of the Acts of 1997, is hereby further amended by striking sections 2 and 3.

SECTION 295. Subsection (e) of section 7 of chapter 465 of the Acts of 1980 is hereby amended by striking out in the first sentence as appearing in section 89 of chapter 233 of the Acts of 1983 the words "and the department are hereby each severally" and inserting in place thereof the following word:- is.

SECTION 296. Said section (e) of said section 7 of said chapter 465 is hereby further amended by striking out in the third sentence as appearing in said section 89 of said chapter 233 the words "or department".

SECTION 297. Said section (e) of said section 7 of said chapter 465 is hereby further amended by striking out in the sixth sentence as appearing in said section 89 of said chapter 233 the words "or department".

SECTION 298. Chapter 234 of the Acts of 1985, as most recently amended by section 2 of chapter 56 of the Acts of 1997, is hereby amended by striking section 3.

SECTION 299. Sections 110 through 129, inclusive, of chapter 43 of the Acts of 1997 are hereby repealed.

SECTION 300. Sections 33, 34, and 35 of chapter 88 of the Acts of 1997 are hereby repealed.

SECTION 301. The director of the office of consumer affairs and business regulation is hereby authorized and directed to create a special commission on the deregulation of industry, which shall study the ramifications of past and future efforts to restructure the major regulated businesses and industries serving the commonwealth's consumers, including, but not limited to, the electric utility industry, telephone and telecommunications industry, the gas industry, the transportation industry, and the cable television industry. Said commission shall consist of the following 21 members: the director of the office of consumer affairs, who shall serve as the chairman; two members of the general court, one selected by the speaker of the house of representatives and one selected by the president of the senate; the attorney general, or his designee; a member of the commission of the department of regulated industries; two representatives from each of the five aforementioned major regulated industries; three consumer protection advocates; two members representing the interests of industry employees, one of whom shall be a representative of organized labor, and one person who shall be a member of the Massachusetts municipal association. Said commission shall study and make recommendations on the future regulatory role of the commonwealth over these industries, including, but not limited to, requiring the department of regulated industries to promulgate model rules and regulations governing the conduct, operation, and rate structure of merged regulated industries, including, but not limited to, merged electric and cable television companies, merged electric and gas companies, and merged telephone and cable television companies. Said commission shall issue an initial report to the joint committee on government regulations on or before January 1, 1999.

SECTION 302. The Massachusetts emergency management agency is hereby authorized to make an assessment against each existing and proposed operator of a nuclear power plant inside and outside of the commonwealth which is within a ten-mile radius of a municipality within the commonwealth to defray the costs incurred by the office of emergency preparedness in the performance of its duties pertaining to nuclear safety emergency preparedness in an amount to be determined annually by the general court.

SECTION 303. Any administrative or adjudicative proceeding or public hearing related to the implementation of this act shall be subject to the provisions of chapters 25, 30A, and 164 of the General Laws.

SECTION 304. Nothing in this act shall be construed to prohibit the department of regulated industries, in complying with the specific provisions of chapter 164 of the General Laws, as amended by this act, from otherwise exercising its authority pursuant to the provisions of said chapter 164 in proceedings which relate to the introduction of

competition in the generation sector of the electricity industry; provided, however, in the event where a question of legislative intent arises in the implementation of the provisions of this act, said department shall fully consult and seek the advice of the legislature to alleviate any anomalies relative to legislative construction; and provided, further, that said department shall not commence the development and promulgation of regulations pursuant to the implementation of paragraph (8) of section 1F of said chapter 164, as inserted by section 190 of this act, prior to January 1, 1998, or the effective date of this act, whichever is sooner.

SECTION 305. The director of consumer affairs and business regulation is hereby authorized and directed, in conjunction with the commissioner of the community antenna television commission established pursuant to chapter 166A of the General Laws, to conduct an investigation and study relative to the adequacy and effectiveness of existing licensing and regulation of cable television operations by municipalities and the commonwealth in meeting the needs of consumers across the commonwealth. In conducting such investigation and study, said director shall consult with municipal officials, consumer organizations and representatives, cable operators, and any other interested parties. Said director shall report his findings, along with any recommendations for legislation, with the joint committee on government regulations of the general court by no later than September 1, 1998.

SECTION 306. Notwithstanding any general or special law, rule, or regulation to the contrary, any petition to construct a generating facility filed pursuant to section 69J of chapter 164 of the General Laws, which is pending before the energy facilities siting board as of the effective date of this act, may be reviewed pursuant to the provisions of either section 69J or section 69J1/4 of said chapter, at the petitioner's discretion and request; provided, however, that any petition to construct a generating facility pursuant to said section 69J of said chapter 164, which has been subject to a public hearing prior to the effective date of this act, shall be subject to the provisions of said section 69J and not the provisions of said section 69J1/4.

SECTION 307. There is hereby created a study commission, which shall be authorized and directed to review and analyze outstanding concerns regarding the siting of energy facilities in the commonwealth. Such concerns shall include, but not be limited to, the following: (i) the development of a procedure for coordinating and consolidating applications to construct generating facilities between and among the board, the department of environmental protection, and other appropriate agencies, to enable "one-stop shopping", so-called, for necessary permits or certificates or other appropriate streamlining of the permitting system; (ii) the expansion of such coordinated procedures to other energy facilities, if appropriate; (iii) possible changes to the energy facilities siting board's procedures for reviewing electric and gas transmission lines in light of recent and proposed changes in the structure and regulation of the electric and gas industries, including regional approaches to the siting of such facilities; (iv) clarification of the energy facilities siting board's jurisdiction over the repowering of existing generating facilities at existing sites and the appropriate standards for reviewing such

repowerings; (v) the development of coordinated procedures to encourage the re-use of existing industrial sites for the development of generating facilities; and (vi) the issue of application fees paid by developers to the energy facilities siting board and the correlation of such fees to the board's procedures, as statutorily revised pursuant to this act, in reviewing such applications; provided, that said study shall include, but not be limited to, recommendations, if any, on reducing the application fee paid by developers to the board in light of the board's statutorily revised standards of review of such applications pursuant to the provisions of this act.

Said study commission shall consist of the following 13 members: the chairman of the department of regulated industries, or his designee, who shall serve as the chairman of said study commission; the commissioner of the department of environmental protection, or his designee; a member of the energy facilities siting board other than the chairman of the department of regulated industries, who shall be selected to serve on said commission by the governor; the house and senate chairmen of the joint committee on government regulations; the house and senate chairmen of the joint committee on energy; and five members to be appointed by the governor, one of whom shall be a representative of the Massachusetts municipal association, one of whom shall be a representative of the Massachusetts association of health boards, two of whom shall be a representative of an environmental protection organization, and two of whom shall be representatives of the electricity generation industry. Said study commission shall issue a final report to the joint committees on government regulations and energy, respectively, and the house and senate committees on ways and means on or before December 31, 1998.

SECTION 308. Notwithstanding any general or special law, rule or regulation to the contrary, the division of energy resources shall, for each state agency in the commonwealth, establish minimum contract specifications for the purchase of solar-powered or energy-efficient products that are in the upper 25 percent of energy efficiency for all similar products, or products that are at least 10 percent more efficient than the minimum level that meets federal standards, as determined by the U.S. Department of Energy and Section 161 of the Energy Policy Act of 1992, and which are procured by the federal government under Section 507 of Presidential Executive Order #12902. Said division shall establish minimum contract specifications for the purchase of computer and other office equipment which comply with the federal Environmental Protection Agency's "Energy Star" designation and which contains equipment to "power down" pursuant to Presidential Executive Order #12845, "Requiring Agencies to Purchase Energy-Efficiency Computer Equipment." Said division shall provide assistance to all state agency and facility purchasing agents in identifying products which meet the energy efficiency and renewable energy guidelines included in this section.

SECTION 309. Notwithstanding the provisions of any general or special law, rule, or regulation to the contrary, any distribution company, aggregator, gas company, municipal lighting plant, or supplier, as defined and governed pursuant to the provisions of chapter 164 of the General Laws, shall be required to provide electricity or gas services to persons or corporations engaged in the business of agriculture or farming, as defined pursuant to section 1A of chapter 128 of the General Laws, at rates, prices, and charges

established at least 10 percent below any other rate, price, or charge category, with further rate, price, or charge considerations granted for off-peak consumption.

SECTION 310. Notwithstanding any general or special law, rule, or regulation to the contrary, any person who is licensed pursuant to the provisions of the sixth paragraph of section 53 of chapter 146 of the General Laws or covered by section 7 of chapter 143 of the General Laws shall continue to be licensed or covered by said statutes as if such person was an employee of a previously regulated utility for so long as such person performs the same work in the same location or locations for any successor employer or employers. In the event a person who has been licensed as an employee of a utility pursuant to the provisions of said section 53 of said chapter 146 or covered by said section 7 of said chapter 143 seeks licensure under the non-utility sections of said statutes, such person shall have credited towards any experience requirements of said statutes or any rules or regulations made thereunder all relevant service performed in the employment of the utility or successor employers.

SECTION 311. Notwithstanding any general or special law, rule, or regulation to the contrary, no sooner than January 1, 2000, the department of regulated industries, in conjunction with the division of energy resources, is hereby authorized and directed to commence an investigation and study relative to the manner in which metering, meter maintenance and testing, customer billing, and information services have been provided by distribution companies since March 1, 1998, pursuant to the provisions of chapter 164 of the General Laws, as amended by this act, to analyze and determine whether such services should be unbundled and provided through a competitive market, whether in doing so any substantive savings accrues to consumers, and whether such substantive savings can be effected with little, if no, disruptions to employee staffing levels of those distribution companies presently conducting those activities. As part of its investigation and study, said department shall consult with and seek input from, through a public hearing process conducted in accordance with the provisions of chapter 30A of the General Laws, any and all interested parties, including, but not limited to, employees of and representatives of employees of distribution companies engaged in such services, electricity ratepayers, consumer representatives, and representatives of distribution companies. Said department shall require all distribution companies operating in the commonwealth pursuant to said chapter 164 to file detailed information relative to their costs of providing such metering, billing, and information services, including, but not limited to, capital costs, depreciation, operating expenses, and taxes. In the event that said department determines that such services shall be subject to unbundling and competition, said department shall, by no later than January 1, 2001, file its recommendations, along with drafts of legislation necessary to implement said recommendations, with the clerk of the house of representatives. Any unbundling and creation of retail competition of such services shall not commence unless statutorily allowed through amendments to said chapter 164 as enacted by the general court upon said department's compliance with the provisions herein.

SECTION 312. The department of regulated industries is hereby authorized and directed to coordinate with the operator of the bulk power system in New England, the federal energy regulatory commission, and the other public utility commissions in the states of Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont to adopt and implement appropriate policy initiatives and statutory reforms, including, but not limited to, the further development of the operator of the bulk power system, to ensure the independent operation of the regional bulk power system in order to provide for full and fair competition in electric generation while preserving the reliability of the system.

The governor of the commonwealth, acting by and through said department, is hereby authorized and directed to pursue the formation of a regional oversight committee with members from the various public utilities regulatory bodies from Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont to monitor any independent systems operator serving the New England/New York area formed through federal statute or regulation. Said committee shall be encouraged to pursue regional coordination of transmission oversight, including, but not limited to, the development and execution of a regional compact agreement, subject to federal congressional and executive approval, in an effort to jointly monitor issues of reliability which affect the region as a whole and to require publicly and investor-owned utilities located in the aforementioned states that sell energy to retail customers in the commonwealth to adhere to enforceable standards and protocols to protect the reliability of the regional transmission and distribution systems.

SECTION 313. By February 1, 1998, the governor shall, in conjunction with the secretary of administration and finance and any other persons the governor so deems necessary, commence a review and survey of salaries and other compensation, if any, paid to persons who serve on state public utility commissions in the United States and assess the need to adjust the salaries and compensation paid to commissioners of the department of regulated industries, who are appointed pursuant to section 2 of chapter 25 of the General Laws. If a determination is made that such salaries and compensation for said commissioners needs to be adjusted from its current amounts, the governor shall file, in the form of legislation or as a provision to an appropriations proposal, such recommendations detailing the amounts to be set for such salaries and compensation. In no instance shall such salaries or compensation be adjusted in a manner which is not consistent with the provisions of this section.

SECTION 314. Notwithstanding any general or special law, rule, or regulation to the contrary, the department of regulated industries shall, by no later than July 1, 1998, disclose publicly all rates approved by said department prior to July 1, 1997, for the sale of electricity pursuant to section 94 of chapter 164 of the General Laws which were previously not disclosed to the public pursuant to section 5D of chapter 25 of the General Laws. Any rate for electricity charged to any customer of electricity on and after March 1, 1998, shall be considered public information and in no manner shall receive trade secret status pursuant said section 5D of said chapter 25.

SECTION 315. No later than January 1, 2002, the department of revenue shall commence an investigation and study of the viability and effectiveness of the provisions of section 38H of chapter 59 of the General Laws, as inserted by section 66 of this act, including the payment in lieu of taxes agreements authorized pursuant to subsection (a) of said section 38H of said chapter 59 and the monies derived from the charge authorized to be assessed pursuant to subsection (d) of said section 38H of said chapter 59 and deposited into the municipal property tax assistance fund, established pursuant to section 2PP of chapter 29 of the General Laws, as inserted by section 47 of this act, in alleviating any undue fiscal hardships suffered by cities and towns as a result of reduced property tax revenues from either the devaluation of property on which is located electricity generation facilities or the sale by electric or generation companies of such property and the subsequent termination of generation activities thereon. Said department shall, by May 1, 2002, file its recommendations and findings, including a determination as to whether or not such provisions relative to payments in lieu of taxes should be altered in any manner an whether or not said charge should extended by the general court beyond its expiration date of June 30 2003, or altered in any manner, with the joint committees on taxation and government regulations, respectively, and the house and senate committees on ways and means.

SECTION 316. Notwithstanding any general or special law, rule, or regulation to the contrary, any monies remaining in the municipal property tax assistance fund, established pursuant to section 2PP of chapter 29 of the General Laws, after the expiration date of said fund shall revert to and be deposited into the General Fund, unless otherwise earmarked by the general court after said date.

SECTION 317. The department of revenue shall, within 30 days of the effective date of this act, commence an investigation and study as to the potential fiscal implications to the revenues of the commonwealth for the following two proposed amendments to the state tax code:

(1) Section 6 of chapter 62 of the General Laws is hereby amended by inserting after subsection (i), as inserted by section 63 of chapter 43 of the Acts of 1997, the following two new subsections:-

(j) Any individual who contracts with a retail electricity supplier to purchase renewably-generated electricity in excess of minimum requirements under the renewables portfolio standard, established pursuant to section 11G of chapter 25A, shall be entitled to take an income tax deduction equivalent to 50 percent of the above-market price. The determination of above-market price shall be performed and certified by the department based on an analysis of current market conditions. The department may promulgate any rules, regulations, or procedures necessary to make such a determination.

(k) Any individual who purchases company qualifying energy efficiency equipment shall be entitled to an income tax deduction equivalent of 20 percent of the cost up to a maximum of $10,000 annually. The division of energy resources shall, through a public hearing process, determine a level of efficiency necessary to qualify a product for the deduction. Systems to be considered shall include high-efficiency lighting and ballasts, residential and commercial refrigerators and freezers, electric and gas water heating

systems, ground-source or high efficiency heat pumps, horizontal-axis washing machines, and high-efficiency furnaces. The division shall set the minimum qualifying efficiency standard based upon achieving significant improvements over federal appliance efficiency standards and with the intent of creating incentives to purchase equipment consuming less energy than 75 percent of similar products on the market. The division shall have the authority to add or alter qualifying products based upon changes in technology and federal standards.

(2) Section 31A of chapter 63 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after subsection (m) the following two new subsections:-

(n) Any business which contracts with a retail electricity supplier to purchase renewably-generated electricity in excess of minimum requirements under the renewables portfolio standard, established pursuant to section 11G of chapter 25A, shall be entitled to take a business tax deduction equivalent to 25 percent of the above-market price. The determination of above market price shall be performed and certified by the department based on an analysis of current market conditions. The department may devise any rules or procedures necessary to make such a determination.

(o) Any business purchasing qualifying energy efficiency equipment shall be entitled to an income tax deduction equivalent to 10 percent of the cost up to a maximum of $50,000 annually. The division of energy resources shall, through a public hearing process, determine a level of efficiency necessary to qualify a product for the deduction. Systems to be considered shall include high-efficiency lighting and ballasts, residential and commercial refrigerators and freezers, electric and gas water heating systems, ground-source or high efficiency heat pumps, horizontal-axis washing machines, and high-efficiency furnaces. The division shall set the minimum qualifying efficiency standard based upon achieving significant improvements over federal appliance efficiency standards and with the intent of creating incentives to purchase equipment consuming less energy than 75 percent of similar products on the market. The division shall have the authority to add or alter qualifying products based upon changes in technology and federal standards.

Upon the completion of its investigation and study, the department of revenue shall file a report, detailing its findings and recommendations, with the joint committees on taxation and government regulations, respectively, and the house and senate committees on ways and means.

SECTION 318. Notwithstanding any general or special law to the contrary, since the restructuring of the electricity industry in the commonwealth and the transition to expanded customer retail choice and competitive markets in said industry will trigger shifts in the natural gas utility industry as regulated by the department of regulated industries, said gas utilities shall consider the experience and expertise of the work force in order to ensure the safety and reliability of the natural gas system and the continued provision of high quality customer service, and to avoid economic dislocation.

SECTION 319. The provisions of section 71I of chapter 151A of the General Laws, as inserted by section 113 of this act, shall expire on December 31, 2002.

SECTION 320. The provisions of sections 196, 198 through 202, inclusive, and 204 through 225, inclusive, of this act shall take effect 90 days after this act's effective date.

SECTION 321. Notwithstanding any general or special law, rule, or regulation to the contrary, a governmental body, in executing a contract for the provision of energy or energy related services on behalf of its citizens pursuant to clause (32) of subsection (b) of section 1 of chapter 30B of the General Laws, as inserted by section 55 of this act, shall follow prescribed procedures as developed, promulgated as regulations, and enforced by the inspector general of the commonwealth. In developing such regulations, said inspector general shall consult with the state auditor, the division of energy resources, and municipal officials.

SECTION 322. Except as otherwise provided in paragraph (8) of section 1F of chapter 164 of the General Laws, as inserted by section 190 of this act, the department of regulated industries, the division of energy resources, and the board of electricity transition costs shall submit any rules and regulations promulgated under the provisions of this act to the joint committee on government regulations for its review at least 60 days prior to the effective date of said regulations.

SECTION 323. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.